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THE
STATUTES AT LARGE

OF

SOUTH CAROLINA;

EDITED, UNDER AUTHORITY OF THE LEGISLATURE,

BY

DAVID J. McCORD.



VOLUME SEVENTH,

CONTAINING THE ACTS RELATING TO CHARLESTON, COURTS, SLAVES, AND
RIVERS.



COLUMBIA, S. C.
PRINTED BY A. S. JOHNSTON.
1840.

1836-1841

THE

STATUTES AT LARGE

OF THE

LEGISLATURE OF THE DISTRICT OF COLUMBIA

IN THE

YEAR 1841

PRINTED BY G. W. WOODS, AT THE DISTRICT OF COLUMBIA, UNDER THE

ACT


OF

THE DISTRICT OF COLUMBIA

1841

NOTICE.

As it is an age when our institutions are likely to be misrepresented, the Editor thinks it proper to call the attention of the reader to the fact that all the laws on the subject of slaves, from the year 1690 to 1751, included between the pages 343 and 426, of this volume, expired before the revolution. If the false philanthropist of the day chooses to quarrel with any enactments during that period, let him recollect that they were British, not American Laws; and that the free people of South Carolina have no cause to blush at any enactment of theirs.



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STATUTES AT LARGE.

ACTS RELATING TO THE CITY OF CHARLESTON.

AN ACT FOR CLEARING THE LOTTS AND STREETS OF CHARLES TOWN, No. 25. AND FOR THE SETTLEMENT AND REGULATION OF A NIGHT WATCH IN THE SAID TOWN.

WHEREAS, Charles Town, within this Province of Carolina, is the chief Port Town and place of resorte and trade, and it being therefore requisite to use all fitting methods that may be most conducive to the preservation of the good ayre thereof, and for making the same more commodious for the inhabitants of the said town, and for strangers and others passing and repassing with their goods and chattels, in and through the same—

Preamble.

I. *Be it therefore enacted*, by his Excellency William Earle of Craven, Palatine, the true and absolute Lords and proprietors of the said Province, and by the Commons of the same, now assembled in Parliament, and by the said authority it is enacted, That from and after the day of the open ratification of this Act, all and every owner and owners, possessor and possessors, of any lott or lotts, parte or partes of lotts or lottes, on which is or are any house or houses, tenements or buildings, now erected and built within the circuit limits and bounds of the said town, shall, within the space of two calender months, at his or their costs and charges, clear out and remove out of their said respective lotts and grounds, all bushes, young pines and weeds, therein standing and growing; and every individuall owner and owners, possessor and possessors of such houses, tenements and buildings as aforesaid, shall, within the said space of time, also clear, stubb upp and remove all bushes, stumpes, young pines, and weeds, or cause the same to be cleared, stubbed upp and removed, out of one half of the breadth of the street, fronting the respective fore-dores of their said houses and buildings within the said town; all which bushes, stumpes, young pines and weeds, being so by them cutt down, stubbed upp and removed, the said owners and possessors of houses above mentioned, shall burne, keep under and suppress, from tyme to tyme; and if any such owners or possessors of houses as aforesaid, shall neglect to yield his or their full obedience to this Act, such person or persons, being duly convicted before any two justices of the peace of the said Province, or before the grand councill, shall pay unto the Sheriff of the county of Berkley,

Streets and
lots to be clear-
ed.

A. D. 1685.

Acts relating to the City of Charleston.

Penalty for neglect.

or his deputy for the tyme being, tenn shillings in good and current money, or the value thereof in good merchantable corne, pease, beef, pork or tarre, at the market price, for every fourteen days he or they shall make such neglect as aforesaid, to be levyed by distress, appraisement and sale of the offender's goods, by warrant, under the hand of some justice of the peace of this province, directed to the constable of that division or precinct of the town wherein the offender lives, the said constable rendering to him the overplus; and in case the said constable or officer shall, upon his warrant, returne that he can find noe effects belonging to the said offender wherewith to make a distress, then the grand council, or the said justices of the peace, shall and may inflict such other punishment, of imprisonment or otherwise, as in their wisdomes they shall think fitt.

Fines how disposed of.

II. *And it is enacted* by the authority of this Parliament, That the said Sheriff of Berkley county shall, in his accounts, charge himself with whatsoever penaltyes or forfeitures he shall or may receive by virtue of this Act, which penaltyes, forfeitures and moneys in his hands as aforesaid, shall be employed towards the public service of the said province, as the grand council shall direct.

A Watch to be raised.

III. *And whereas*, the peace and good weall of this Province and town, depends much upon the orderly government thereof, and particularly on the settlement of a constable's watch in the night, during great part of the yeare. *Be it therefore enacted*, and it is *enacted* by the authority aforesaid, That the two constables and their deputie constables for the tyme being, dwelling in and appointed for the said town, from and after the ratification of this present Act, doe take an exact list role of all the householders, masters and mistresses of families, and freemen lodgers, within the said town, and who have dwelt and continued therein the space of three months at the publication of this Act, and of their respective dwellings, and of the owners of empty houses who doe not live in the said town; whose persons and habitations and said empty houses, being distinguished by lott or other agreement among them, into four divisions, partes and precincts, and each constable and deputie constable, having an appointment, by mutuall agreement between them, of his respective division, shall give or send due and tymely notice to every house-holder, lodger and freeman of the said town, having continued therein the space of three months as aforesaid, (whose turne it shall be to watch) of his or their (or their servants or substitutes) tyme of guard and watching.

Hours of Guard.

IV. *And be it enacted*, and it is *enacted* by the authority of this Parliament, That the said constables and deputy constables of Charles Town aforesaid, so long and during such tyme as the grand councill shall direct, shall, every night, in their respective several turnes, summons to his and their assistance the number of six persons as watchmen, being inhabitants within his precinct and limits as aforesaid; each of which constables and deputy constables shall, in his respective turne, with his said watchmen, set a guard in the said town, which shall continue from the houre of tenn at night, untill half an houre before sunn rising in the morning; and the said constables shall take such care with attending to their duties, and the charge given them by the general councill, or two justices of the peace or members of the grand councill [as] on them shall be incumbent.

Substitutes to be found.

V. And to the end, the said constables and deputy constables may not be without his appointed number of watchmen, and for the greater ease of many poor tradesmen, laboringmen, freemen, dwelling in the said town, complaining of their frequent watching, to their great disturbance and hinderance in their callings, *Be it therefore enacted*, and it is by the authority

Acts relating to the City of Charleston.

A. D. 1685.

of this present Parliament *enacted*, That all house-holders, and masters and mistresses of families, holding wholl or parte of lotts whereon houses are built in the said town, and all single persons being freemen and lodgers, having been three months in the said town, and all owuers of houses empty in the said town, shall, by themselves, substitutes or servants, in respect of their houses and lodgings, watch in their due course, and attend the constable, or the chief of the watch, for the tyme appointed by the said constable, (they having due warning as aforesaid,) soe long, and at such houres in the night and morning, as is above mentioned, on the paine and penalty of Defaulters, how dealt with. payment to the constable or deputy constable of the division or precinct to which he belongeth, the sum of fifteen pence for each night any such person shall not watch, having had such notice as aforesaid; and the said constable and deputy constable shall return the names of the defaulters in their respective divisions, to any member of the grand council or justice of the peace, who shall cause a warrant to be issued out for the distress, appraisement and sale of the defendant's goods, returning him the over-plus, (if any;) and if there shall be noe effects to be found within the said constables' precincts, of the person or persons making default, or refusing as aforesaid, then the said offending person or persons shall receive such punishment, by imprisonment or otherwise, as the members of the grand councill or justices of the peace aforementioned shall direct.

VI. *And it is further enacted* by the authority aforesaid, That all the said forfeitures and paiments of fifteen pence for every night's default, shall be paid unto the constable and deputy constable in whose precinct the said default is made, towards and for the reimbursement of his charge of finding and procuring another watchman serving in the room of the said defaulter. Fines, how disposed of.

Provided always, and it is *enacted*, that if any of the said constables shall unduly, and contrary to his course and turne, oblige any man to watch as aforesaid, that every such constable offending, being duly convicted by manifest proofs before the grand council or any one member thereof, shall pay to the party grieved the sume of two shillings and six pence for every night he shall have watched (by the said constable's notice) irregularly contrary to the intent and meaning of this Act. Constables offending.

Provided always, that it shall and may be lawful to and for the said constables, or any of them, after he shall have sett his night watch and guard as aforesaid, (unless in tymes of apparent perill and hazard, or that he be otherwise commanded,) to appoint and charge one of his said watchmen during his night, as chief of the said watch, during the said constable's absence, so as the said constable in his person discharge and dismiss his said guard in the morning.

Provided always, and it is *enacted*, That this Act shall continue the space of twenty three months, and no longer.

*Read three times, and ratified in open Parliament,
this eleventh day of Aprill, 1685.*

JOSEPH WEST,
JOHN MOORE,
JOHN GODFREY,
MATHEW MATHEWS,
PAUL GRIMBALL,
STE. BULL,
JNO. BOONE,
ROBERT QUARRY.

A. D. 1690.

Acts relating to the City of Charleston.

No. 36. AN ACT for the clearing the lotts and streets of Charles Town, and for the settlement and regulation of a Night Watch in the said Towne.

(This Act being merely a re-enactment, for 23 months, of No. 25, which had expired, it is thought useless to reprint it. Passed Feby. 28, 1687.)

No. 50. AN ACT FOR THE SETTLING AND CONTINUING A WATCH IN CHARLES TOWN.

FORASMUCH, as in this time of warr and eminent danger, it is necessary and convenient that there be a due and faithful watch constantly kept in Charlestown—

Guard to be
furnished.

I. *Be it therefore enacted* by his Excellency, William, Earle of Craven, Pallatine, and the rest of the Lords and absolute proprietors of this Province, by and with the advice and consent of the Commons in this present Parliament assembled, and it is *enacted* by the authority of the same, That the constables of Charles Town aforesaid, are hereby required to summons six of the masters of families, or freemen dwelling or inhabiting in any house in Charles Town, to come or send one able man, with a gun well fixt, and six charges of powder and ball, to attend the constable or his deputy every night, to keep a watch in the said town; and all mistresses of familys are required to send a man armed as aforesaid, in their respective turne; and in case the master, mistress or freeman, as afore expressed, shall refuse or neglect to come or send a man as aforesaid, to watch when it shall come to his or their turne or turnes, shall forfeit for every such offence or default, the sum of fifteen pence current money of this Province, for every night he or they shall make such default or defaults; and on the person or persons refusall to pay the fines or forfeitures as aforesaid, the constable shall, by a warrant from any justice of the peace, levy and distrain the same upon his or their goods and chattles; and if the person committing such default as aforesaid, be an inmate only in the said town, if he refuse to pay the forfeitures as aforesaid, then the justice of the peace, upon the oath of the constable, shall commit the body of the person so defaulting to prison, untill he shall pay the forfeit as aforesaid.

Defaulters how
dealt with.

II. *And it is hereby enacted*, That all dwelling houses in Charles Towne, that at present are, or hereafter shall be, without inhabitants, the owner or owners of such house or houses shall find one man to watch for each house, as often as it shall come to his or their turne, or forfeit the sum of fifteen pence current money of this Province, for every such default or defaults; and upon his or their refusal to pay the sum or sums of money so forfeited, the same, by a warrant from any justice of the peace of this county, shall by the constable be levied and distrained of the goods and chattels of the party so defaulting; and the constables of Charles Town shall and are hereby required without fail to keep a due and faithful and constant watch in the said towne, and of them, every one or his deputy, by turns, with such number of persons to assist him as is before provided by this Act; and if the said constables, or any of them, refuse or neglect to keep a due and constant watch as aforesaid, then the said constable or constables so offending, shall fofeit for every such offence and offences, the summ of ten shillings, being thereof convicted before any justice of the

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peace of this county, the one half to the informer, the other half to the poor people of Charles Towne, to be disposed of by the discretion of the said justice.

*Read three times and ratified in open Parliament,
this twenty-second day of December, 1690.*

SETH SOTHELL
JOHN HARRIS.
G. MUSCHAMP,
JOHN BERESFORD.

AN ACT TO PREVENT SWINE GOING LOOSE OR AT LARGE, IN OR ABOUT CHARLES TOWN, AND TO PREVENT NUSANCES. No. 86.

WHEREAS, of late great numbers of swine of all sorts have been accustomed to go loose in or about Charlestown, to the prejudice and great annoyance of the inhabitants of the said town; Preamble.

I. *Be it enacted*, by his Excellency William Earl of Craven, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown, for the South-west part of this Province, and it is enacted by the authority of the same, That no person or persons whatsoever, shall or do, from and after ten days after the ratification of this Act, suffer or permit his or their swine, of any sort whatsoever, to go loose or at large within the bounds of Charlestown, or the limits thereof, as it is bounded in the model of the said town upon record in the Surveyor General's office, upon the penalty of the forfeiture of all such swine, or paying the sum of five shillings, current money, for each swine, to him or them that shall kill or take up and proclaim the same. No swine to go loose in Charlestown.

II: *And be it further enacted*, That from and after the said ten days, it shall and may be lawful for all and every person or persons whatsoever, (except slaves) to kill, or take and carry away, alive or dead, all or any swine going loose or at large, in or about Charlestown; *provided always*, and it is hereby declared, that every person or persons, so killing or taking and carrying away such swine, do, within one hour after such swine is killed, or within twelve hours after such swine is taken and carried away alive, cry, or cause to be cryed, in four several and usual places in Charlestown, all and every such swine, and at the same time proclaim their ear-marks, and whether they be dead or alive, and in what house or place they are in. Penalty.

III. *And be it further enacted* by the authority aforesaid, That if the owner or owners of any swine that shall or may be killed, or taken and carried away alive, and cried in Charlestown, in manner aforesaid, do not, within two hours after the crying or proclaiming such swine, if the swine be dead, or within twelve hours if the said swine be living, come and challenge his or their swine, or challenging his or their swine, do refuse to pay him or them that shall have killed, or taken and carried away alive, May be killed.

Fine.

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and proclaimed his or their swine, in manner aforesaid, the sum of five shillings, current money, for each swine, it shall and may be lawful for him or them that killed or carried away alive, and proclaimed the said swine, to convert all and every such swine to his or their own use forever.

Proviso.

IV. *Provided always, and be it enacted* by the authority aforesaid, That neither this Act nor any thing therein contained shall extend to any sort of swine in Charlestown, that are constantly kept in sties, or within fences or inclosures.

Nuisances

V. And for the avoiding of nuisances, *Be it further enacted* by the authority aforesaid, That all and every person inhabiting within the limits aforesaid, shall and do, from time to time, cut down and destroy the weed commonly called the stinking weed, and all other noisome weeds that shall or may hereafter grow and be in his or their lot or lots, or bounds of their several places of habitations, and in the streets before the same.

VI. And that no person or persons whatsoever, do keep any house or houses of ease within the said limits, to the annoyance of any person or persons whatsoever, inhabiting or passing to and fro in Charlestown aforesaid, under the penalty of being indicted for any of the said offences at the sessions; and being convicted thereof by verdict of jury, shall pay such fine or fines as the justices of the general sessions or gaol delivery shall think fit, not exceeding the sum of five pounds, current money of this Province.

Read three times and ratified in open Assembly, October 15, 1692.

RICHARD CONANT, (L. S.)

JOSEPH BLAKE, (L. S.)

PHILIP LUDWELL, (L. S.)

THO. SMITH, (L. S.)

PAUL GRIMBALL, (L. S.)

No. 133. AN ACT TO APPROPRIATE THE MONEYS RAISED AND TO BE RAISED BY AN IMPOSITION ON LIQUORS, &c. IMPORTED INTO, AND SKINS AND FURRS EXPORTED OUT OF THIS PART OF, THIS PROVINCE, TO A FORTIFICATION IN CHARLES TOWN.

Sec. I. II. III. IV. *Not to be found.*

No person to
fling over bal-
last in any part
of this harbor,

V. And for the better security of shipping at anchor in this harbour, and for the prevention of staving and wrecking of boats and canoes, lying along the bay of Charlestown, by means of rock-stones, ballast and other offensive things, *Be it enacted* by the authority aforesaid, That from and after the ratification of this Act, no master or other officer belonging to any vessel, or any other person, shall presume to cast or throw over board in any part of this harbour, any manner of ballast, or other matter whatsoever, which may or can be any ways offensive to the said harbour, in respect of cables or otherwise, upon the penalty of five pounds for every such offence; and also that no master or other person shall lay and let lie any ballast on shore at any place before Charlestown, below the line on

Nor let ballast
lie below the
line above ten
days

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which the wharff-wall is to be built, above ten days, under the pain and forfeiture of ten shillings for every twenty-four hours such ballast or other offensive matter shall be suffered so to lie after the said ten days, to be paid by the master of the said vessel out of which such ballast shall come, if the same be not sold, otherwise by the person that hath bought the same; *provided*, that it shall and may be lawful for any master or other person to lay and put on shore any quantity of ballast whatsoever, (above the water-mark at half tide, as it is described by two cedar stakes for that end set up,) right against the end of the broad-street called — street, which is hereby appointed the ballast-wharf of this harbour; all which fines and forfeitures in the next foregoing clause, shall be recovered by warrant from the admiral, vice-admiral, or any assistant judge of the court, in the same manner as in the Act for small and mean causes is provided; the one half of all which forfeitures shall be for and towards the building of the fortification, and the maintenance and reparations thereof, and the other half to him or them that will sue for the same.

Proviso.

Fines and forfeitures how to be recovered.

Read three times, and ratified in open Assembly, March 16, 1696.

JOHN ARCHDALE, (L. S.)
 JOSEPH BLAKE, (L. S.)
 JOSEPH MORTON, (L. S.)
 STEPHEN BULL, (L. S.)
 THOMAS CARY, (L. S.)
 JAMES MOORE, (L. S.)
 JOHN BERESFORD, (L. S.)
 WILLIAM HAWETT, (L. S.)

AN ACT FOR SETTLING A WATCH IN CHARLES TOWN, AND FOR PREVENTING OF FIRES.

No. 162.

FORASMUCH, as the constables have been very remiss and negligent in keeping the watch in Charlestowne, which att all times ought to be duly strictly observed and performed, more especially since the late fatal and dismal conflagration, and for the better preservation of the said town, and for keeping good orders and a more careful and strict watch therein,

Preamble.

I. *Be it enacted* by his Excellency, John, Earl of Bath, Palatine, and the rest of the true and absolute Lords and proprietors of the Province of Carolina, by and with the advice and consent of the rest of the members of the General Assembly, now mett at Charles Town, for the South-west part of this Province, *And it is enacted* by the authority of the same, That the constables in Charlestown shall, sometime within tenn days after the ratification of this Act, make a list of all the men's names inhabiting in the same, which are above sixteen years old and under sixty, and the same to the Right Honorable the Governor, or whom he shall appoint, return and present, which shall be under their hands and seals, and by them be attested to be a true and perfect list; of which list, beginning with the first names thereof, the constables aforesaid shall summon six men, well equipped with arms and ammunition as the Act of militia directs, to keep watch with him

List of male inhabitants to be made.

Six for a night guard.

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Defaulters.

or them, or their deputys, in said town, from the hour of eight at night to the hour of six in the morning, from the tenth day after the ratification of this Act to the tenth day of March following; and from the hour of nine at night, to the hour of four in the morning, from the tenth day of March to the tenth day of September following, yearly, each person in his turn as they are sett down in the said lyst; and in times of eminent danger, the Right Honorable the Governour, or the Governour for the time being, or any by him appointed, have power to double the said watch when they shall see occasion; and if it shall so happen, one or more persons should be sick, that usually and generally watches in person, when it comes to his or their turns to watch, the constable or his deputy shall summons the next person in the list, to fill up his or their room; and when all the persons in the said list have watched one round, or sent an able man in his room, then the first person in the said list to begin again, and so in order; and every person which after summons to watch or send one able man in his room as aforesaid, he or they that so neglects or refuseth, shall forfeit two shillings and six pence, to be levied by warrant under a justice's hand and seal, directed to a constable; and as often as a constable shall make return upon oath that he cannot find effects upon which to execute said warrant, any one justice is hereby empowered to commit such person or persons to gaol till payment be made; and every constable which shall or doth neglect or refuse, either by himself or his deputy, to summons such persons as in course ought to watch, or honestly to look after said watch, to forfeit tenn shillings, for each neglect or refusal, to be levied as before; and the forfeiture of each person which did neglect or refuse to watch in his turn, and likewise the forfeiture of the constables, shall be paid to the commissioners of the poor, by them to be given to the poor; and the aforesaid constable shall have as the fees directs in the Act of small and mean causes.

Constables duty.

II. *And whereas*, several abuses has been committed by watch men, that have pretended to have watcht for persons, before it comes to their turns. *Bee it therefore enacted* by the authority aforesaid, That every constable that doth put any watchman for any person or persons, as it comes to his or their turnes, shall give the said watchman, the next day, a noat to certify that he watcht for the said person; and every constable that refuseth to give any such noat to any watchman, that has duely watcht, shall forfeit for each refusal, two shillings and six pence, to be levied as aforesaid.

Negroes to be taken up.

III. *And whereas*, negroes frequently absent themselves from their masters or owners houses, caballing, pilfiring, stealing and playing the rogue, at unseasonable hours of the night. *Bee it therefore enacted*, That any constable or his deputy, meeting with any negro or negroes, belonging to Charles Town, at such unseasonable times as aforesaid, and cannot give good and satisfactory account of his business, the said constable or his deputy, is required to keep the said negro or negroes in safe custody till next morning, and then to bring the said negro or negroes to their said master or masters or owners of said slaves, and for so doing each master, masters or owners, shall pay unto the said constable or his deputy, one shilling and three pence for each negro.

IV. *Bee it further enacted*, That every person that hath in possession, or doth own and claim any right, title or interest, to any lott or lotts, half-lotts or lesser part of any lott or lotts in Charles Town, within a straight line drawn from the head of Major Daniells Creek, to the head of the marsh

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going to the old Burial Place, where the commissioners hereafter shall appoynt, some time within three months after the ratification of this Act, shall cut down and burn all young pine trees or pine bushes, and by the root dig up all other sorts of bushes, brush, tall weeds, and underwood, and the same burn or carry of, which are growing and lying upon their respective lott or lotts, or any lesser part of a lott, within the time appointed, shall forfeit twenty shillings for each lott containing half an acre of land, and so proportionably for every part of a lott, either greater or lesser than half an acre, to be levied by warrant of distress, under the hand and seal of a justice of the peace, and given to the poor as aforesaid.

Certain lotts
be cleared.

V. *Whereas*, there is great numbers of goats of all sorts, doth goe loos in and about Charles Town, to the great prejudice of the inhabitants of the said town. *Bee it further enacted*, That no person or persons whatsoever, shall or do, from and after thirty days after the ratification of this Act, suffer or permitt his or their goats of any sort whatsoever, to goe loos or at large, within the bounds of Charlestown or the limitts thereof, as it is bounded in the model of said town, upon record in the Surveyor General's office, upon the penalty of the forfeiture of all such goats, or paying the sum of five shillings current money, to him or them that shall kill or take up and proclaim the same.

Goats not to go
loose.

VI. *And bee it further enacted*, That from and after the said thirty days, it shall and may be lawful for all and every person or persons whatsoever, (except slaves) to kill or take, and carry away, alive or dead, all or any goats going loos or at large in or about Charles Town; *Provided always*, and it is hereby declared, that every person or persons so killing or taking and carrying away such goats, do within two hours after such goats is killed or taken and carryed away, cry, or cause to be cried, in four several and usual places in Charlestown.

May be killed.

VII. *And bee it enacted* by the authority aforesaid, That if the owners of any such goats that shall or may be taken, or killed, or carryed away alive, and cryed in Charlestown in manner aforesaid, do not within two hours after the crying and proclaiming such goats, come and challenge his or their goats, making it appear it is his, do refuse to pay him or them, that they shall have killed, or taken and carryed away alive, and proclaimed his or their goats in manner aforesaid, the sum of five shillings current money for each such goat, then it shall and may be lawful for him or them that killed or carryed away alive, and proclaimed, to convert all and every such goats to his or their own use for ever.

VIII. *Provided always, and be it enacted* by the authority aforesaid, That neither this Act nor any thing therein contained shall extend to any sort of goats in Charles Town that are constantly kept in such inclosures that are pailed in.

IX. *Whereas*, there are several houses of offices, or privy houses, which are very offensive to the inhabitants in Charles Town, and for the better preventing the same, *Bee it enacted*, That all persons inhabitants of said town, that hath any such house of offices or privy houses, that are so deemed by any two of the commissioners, shall, in two months from and after the ratification of this Act, fill up and cover the same with dirt and other rubbidge, so that the said nuzances may be prevented, under the penalty and forfeiture of twenty shillings for each month they shall neglect to fill up and cover the same, the penalty or forfeiture to be levied by warrant from under the hand and seal of any justice of peace, the one

Nuisances.

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half to the informer, the other half to be delivered to the commissioners of the poor, for the use of the poor.

X. *And be it further enacted* by the authority aforesaid, That every person that fills up all such houses of offices or privy houses that shall be deemed nuzances by any two of the commissioners aforesaid, when so filled up, shall after so filling up and covered, keep tubbs or some other small vessels, in their houses of offices, or privy houses, in order to preventing of nuzances, and to empty them once a week, under the penalty and forfeiture of five shillings for every such offence, to be levied by a warrant from under the hand and seal of any justice of the peace, to the use aforesaid.

Chimnies how
to be built.

XI. *And be it enacted* by the authority aforesaid, That no person or persons whatsoever, after the ratification of this Act, shall build or cause to be built, any chimney in any place within the limits of Charles Town, but such as shall be made of stone, brick, or both, without leave first had and obtained from Mr. Jonathan Amory, Capt. William Smith, Capt. Christopher Garrett, Mr. John Buckley and Mr. George Logan, or any three of them, on penalty of five pounds upon him or them att whose charge such chimney or chimneys shall be built.

XII. *And be it likewise enacted*, That any person owning by inheritance, mortgage, or lease of seven years, any building in Charles Town, which hath a wooden chimney, that is deemed or taken by the commissioners last mentioned, or any three of them, to danger the firing the said building or neighbours houses, the claimer or owner of such buildings or chimneys, shall, within one month after notice given him or them by the said commissioners or any one of them, pull down or cause to be pulled down the said wooden chimneys to the ground, and cause no chimney to be built in the place thereof, but such as shall be made of stone or brick, on penalty of five pounds for each default and neglect.

Fires,

XIII. *And bee it also enacted* and declared by the authority aforesaid, That if any fire shall happen to break out in any part of Charles Town, already built or hereafter shall be built in the said town, that the commissioners aforesaid or any two of them, shall or may and hereby are empowered to give all such directions for the pulling down or blowing up any such house or houses, that shall bee by them adjudged meet to be pulled down or blown up for the stopping or preventing the further spreading of the same; and if it shall happen that the pulling down or blowing up any such house or houses by the directions aforesaid, shall be the occasion of stopping the said fire, or the fire stops before it comes to the same, and not otherwise, then all and every owner of such house or houses, shall receive satisfaction, be paid for the same by the rest of the inhabitants in Charles Town, whose houses shall not be burnt, and the commissioners are hereby empowered to make such rate or rates for the raising and levying such sum or sums of money, as shall be thought convenient by the said commissioners; *Provided all ways*, that if that house where the fire shall first begin and break out, shall be adjudged fitt to be pulled down, to hinder the further spreading and increase of the same, that then the owners of such house shall receive no manner of satisfaction for the same, any thing in this Act or any other Act to the contrary notwithstanding.

XIV. *Bee it enacted*, by the authority aforesaid, That whereas there is several complaints, that most of the inhabitants of Charles Town are very negligent in not sweeping and keeping their chimneys clean from sutt, which oftentimes occasions the firing the said chimneys, and so in dangers the firing of the said house or houses adjoining to the same;

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Bee it therefore enacted by the authority aforesaid, That if any chimney or chimneys in Charles Town, after the ratification of this Act, happen to catch or take fire, the person or persons living in the said house or tenement, where the said chimney or chimneys that so catches or takes fire, shall forfeit twenty shillings, to be levied by a warrant from under the hand and seal of any justice of the peace, one half to the informer, the other half to be delivered to the commissioners of the poor, for the use of the poor. Chimneys to be kept clean.

XV. *Whereas*, it is very necessary that there should be several lathers, fire hooks and leather buckets, for the benefit of preventing the further en- Fire buckets and hooks. creasing and quenching of fires that may happen in any house or houses in Charles Town; *Bee it therefore enacted* by the authority aforesaid, That within ninety days after the ratification of this Act, there shall be levied and assest on all the houses and tenements in Charles Town, the sum of forty pounds current money, each owner and tenant of every house to be assessed by the commissioners of the town as aforesaid, until the said sum of forty pounds be raised; and the said commissioners are hereby empowered to assess and levy the same, each house and tenant to be assessed, according to his value and ability, as the said commissioners shall judge; and when the said money is received by the commissioners, they, or any three of them, shall lay out and buy for the only proper use of Charles Town, six lathers of several sizes, fifty leather bucketts, and six fire hooks.

XVI. *And further bee it enacted*, that by the authority aforesaid, That if there should be any money of the aforesaid forty pounds, left after the aforesaid lathers, bucketts and fire hooks are bought, the remaining part of said money so left, shall remain in the said commissioners's hands, to be by them, or any three of them, laid out for the necessary and public use of Charles Town, as the said commissioners, or any three of them, shall deem convenient.

XVII. *And bee it further enacted* by the authority aforesaid, That in case any of the commissioners, or any other hereafter appointed, shall depart this life or go out of this Province, the Governour for the time being is hereby empowered and authorized to appoynt another in his or their rooms, which persons so named and appoynted, shall have the like power as the aforesaid commissioners have, or shall have. Commissioners vacancies how filled.

XVIII. *And bee it allso enacted*, That no slave or slaves whatsoever, from and after the ratification of this Act, shall fell, cutt, or carry away any timber or other wood, growing, lying or being on any person or person's land, (his master's or owner's land excepted,) without having with him or them a tickett or lycense for their so doing, from the owners of the said land, his attorney or assigns, on penalty, for every default, that it shall and may be lawful for any person or persons whatsoever, to apprehend any such slave or slaves, and him or them deliver into the custody of the marshall, who shall and may detain them in safe custody, till the owner or claimer shall pay him five shillings for such slave, and six pence for every day the said slave shall be in his custody, after the first day; one moiety of the same five shillings to be paid to the party or partys that do apprehend and deliver the said slave to the marshall, and the other moiety to the marshall, if he whips the said slave, or in default thereof, that moiety to be paid to the commissioners of the poor, for the use of the poor. Slave cutting wood on lands not his master's.

XIX. *Bee it allso enacted* by the authority aforesaid, That if any slaughter house, cattle penn, sheep pen, hogg styes, or other thing whatsoever, erected, lying or being in Charles Town, which the commissioners aforesaid

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shall judge a nuzance, shall not be removed by the person or persons that occasions the same, within tenn days after notice given him or them by any two of the commissioners, shall forfeit forty shillings for each month the said nuzance continues, to be recovered by a warrant under the hand and seal of any justice of the peace, one half to be paid to the commissioners of the poor for the use of the poor, the other half to the informer.

Side Walks.

XX. *Whereas*, the streets in Charles Town, after rains, in many places, especially the most frequented parts of the said town, is then much overflowed with water, and makes it very unfit, ill convenient and unpassable; *Bee it therefore enacted* by the authority aforesaid, That every person or persons living and dwelling in those streets, lanes and alleys, in that part of Charles Town hereinafter mentioned, shall, within four months after the ratification of this Act, shall mend and raise the breadth of the fronting part of that lott which belongs to the house they live in, either in street, lane or alley, with broken oyster shells, six feet upon a direct line into the street, lane or alley, so that it shall be adjudged sufficient by the commissioners aforesaid, *And all* such houses that bounds or butts on either said streets, lanes or alleys, that no persons dwell in, then the owners of said houses shall raise and mend their part of such lott as aforesaid; and every person or persons that shall neglect, for doing the same shall forfeit for each house with that part of the lott belonging to the same so fronting, twenty shillings, to be recovered by a warrant from under the hand and seal of any justice of the peace, to be paid into the hands of the commissioners aforesaid, towards the mending the other parts of the streets, lanes and alleys of Charlestown, as they shall think fitt and convenient. The streets, lanes and alleys that are so to be mended, is butted and bounded as followeth: from Capt. Risby's store-house fronting to the harbour of Charles Town, to the house that Mary Cross lately lived in; from the house that Walter Hookley now lives in, to the house that Richard Tread now lives in; and from the house Capt. Christopher Garrett now lives in, on both sides that street, to the dwelling-house of Capt. William Rhett; and from the head of the broad street that leads to the Church on both sides to the Church; and from the head of the lane that Mr. Callybuff lives in, to the street Mr. Mazick now lives in; and from the head of the lane beginning from the street Mr. John Alexander lives in, to the lane Mr. Callybuff lives in.

XXI. *And it is hereby enacted* and declared, That an Act entitled "An Act to revive an Act for the better settling and regulating the militia," ratified in open assembly, the fifth day of December, one thousand six hundred and ninety-six, to be, in every clause, paragraph, sentence and words, null, void, repealed and of no effect, to all intents and purposes whatsoever.

*Read three times and ratified in open Assembly,
the 8th day of October, 1698.*

JOSEPH BLAKE,
STEPHEN BULL,
THOMAS CARY,
JAS. MOORE,
WM. HAWETT.

Acts relating to the City of Charleston.

A.D. 1700.

AN ACT FOR SECURING THE PROVINCIAL LIBRARY AT CHARLESTOWN, No. 171.
IN CAROLINA.

WHEREAS, at the promotion of the Reverend Dr. Thomas Bray, and the encouragement and bounty of the Right Honourable the true and absolute Lords and Proprietors of this Province, and the aforesaid Dr. Bray, and the inhabitants of this Province, a library hath been sent over to Charlestown, for the use of this Province, and it is justly feared that the books belonging to the same will quickly be embezzled, damaged or lost, excepting a law be passed for the effectual preservation of the same—

Preamble.

I. *Be it therefore enacted*, by his Excellency John Earl of Bath, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown, for the South-west part of this Province, and by the authority of the same, That the Provincial Library of Carolina shall be, continue and remain in the hands, custody and possession and safe-keeping of the incumbent or minister of the Church of England, in Charlestown, in this Province, for the time being; which said incumbent is and shall be hereby bound and obliged to keep and preserve the several and respective books therein, from waste, damage, embezzlement, and all other destruction, (fire and all other unavoidable accidents only excepted,) and is and shall be hereby accountable for the same, and every book thereof, to the commissioners hereafter nominated: And to that end and purpose, the incumbent of Charlestown, and his successors, shall pass two receipts for the books belonging to the library aforesaid, one to the commissioners hereafter named, and the other to the church-wardens of Charlestown for the time being, in which receipts the titles of each book shall be inserted; and in case all or any of the books is or shall be found to be wasted, endamaged or embezzled, or any otherwise destroyed, except as before excepted, the respective incumbent, his executors or administrators, are and shall be hereby bound and obliged to answer double the value of the same; and the said commissioners are hereby impowered to sue for the same, in any court of record in this Province, by bill, plaint or information, or other action, wherein no essoign, protection, injunction or wager of law shall be allowed; and what thereby shall be recovered, reasonable charge and expences deducted, to employ and dispose towards the compleating and perfecting the aforesaid library, so wasted, endamaged, embezzled or otherwise destroyed, within the space of twelve months after such recovery.

Library how to be kept.

II. *And be it further enacted* by the authority aforesaid, That in case of the death or removal of the incumbent of Charlestown, in this Province, that then the respective church-wardens of Charlestown shall immediately take into their respective hands, custody, possession and safe-keeping, all the books belonging to the said library, and shall be answerable for the same to the commissioners hereafter nominated.

III. *And be it further enacted* by the authority aforesaid, That the church-wardens of Charlestown, upon their receiving of the books belonging to the said provincial library, into their custody, shall compare the same with the catalogue and receipt for the same, in their custody, and if any of the books are wanting or damaged, they shall give an account thereof in twenty days time at farthest, to the commissioners

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hereafter mentioned, who are hereby impowered to sue the said incumbent, or, in case of his death, his executors or administrators, for the same, as aforesaid: And in case the said church-wardens refuse to give such account, then they, their executors and administrators, are hereby made accountable to the commissioners hereafter named, for all the books belonging to the said library, and contained in the catalogue thereof.

Books, how to be used.

Penalty for damage.

IV. *And be it further enacted* by the authority aforesaid, That the inhabitants of this Province shall have liberty to borrow any book out of the said provincial library, giving a receipt for the same to the incumbent of Charlestown, for the time being, with a promise to return the said book or books; if a folio, in four months time; if a quarto, in two months time; if an octavo, or under, in one month, upon penalty of paying three times the full value of the said book or books so borrowed, in case of failure of returning or damnifying the same: And the said incumbent is hereby obliged to enter such receipt in a book, to be fairly kept for that purpose, and upon the same being returned, shall note it returned, on the other side or column of the said book, and not cross or blot the same: And in case the persons that borrowed any book or books out of the said library, doth refuse to return the same, or doth damnify the said book, upon complaint thereof given by the said incumbent, his executors or administrators, to two or more of the commissioners, and by them, or any five of them, to the chief justice of this Province for the time being, or any two justices of the peace, it shall be lawful, and the said chief justice, or any two justices of the peace, are hereby impowered and required, by warrant of distress, directed to any of the constables of this Province, to levy three times the value of such book or books, on the goods and chattels of the person so refusing to deliver, or damnifying the same; and for want of such distress, to commit the person to prison, till satisfaction be made to the incumbent.

Catalogues to be made.

V. *And be it further enacted* by the authority aforesaid, That the commissioners hereafter named shall make, or cause to be made, seven catalogues of all and singular the books in the said library, and the same being fairly written, one of which shall be sent to England to the Right Honourable the Lords Proprietors of this Province; one to the Right Reverend Father in God the Lord Bishop of London; one to the aforesaid Reverend Dr. Bray; one to be entered on record in the Secretary's office of this Province; one to be in the custody and for the use of the commissioners hereafter named, under which the incumbent shall sign a receipt for the respective books; one to be in the custody of the church-wardens of Charlestown, for the time being, under which the incumbent shall also sign a receipt for the respective books; and one to be fairly entered in a book for that purpose to be kept by the incumbent in the said library, that so any person may know what books are contained in the said library.

Appraisement.

VI. *And be it further enacted* by the authority aforesaid, That the commissioners hereafter named, after making an exact catalogue of all and singular the respective books in the said library, shall, and are hereby impowered to, appraise and rate each book, at a price certain, in the current money of this Province; which appraisement shall be an established rule to judge and determine the value of the said books, in case any suit is brought by the said commissioners against any person that shall detain or damnify any of the said books, or against the incumbent of Charlestown, or his executors or administrators.

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VII. *And be it further enacted* by the authority aforesaid, That the commissioners hereafter named, or any five of them, shall, every year, on the fifth day of November, resort to the house built for the incumbent of Charlestown, where the said library shall be kept, and there examine the books thereof by the catalogue, and see that there be the full number, and that they are not damaged nor spoiled: And therefor, the incumbent is hereby required, in lending of any of the several books out of the said library, notwithstanding the time usually allowed by this Act, to oblige the said persons to return all such books as they borrow, to the said incumbent, ten days before the said fifth day of November, that so all and singular the books belonging to the library aforesaid, may be exposed to the view of the said commissioners, the better to enable them to judge if they are any way damaged or spoiled, and to give their order accordingly.

Examination.

VIII. *And be it further enacted* by the authority aforesaid, That James Moore, Esq., now Governor of Carolina, Joseph Morton, Nicholas Trott, Ralph Izard, Esqrs., Capt. Job Howes, Capt. Thomas Smith, Mr. Robert Stevens, Mr. Joseph Croskeys, and Mr. Robert Fenwicke, or any five of them, be, and are hereby nominated to be, commissioners and trustees, for the due inspection and preservation of the library aforesaid, and all and singular the respective books to the same belonging: And they, or any five of them, shall have power to commence or bring any suit or action given by this Act: And in case, by death or absence, there be not five of the said commissioners in this Province, that the Governor for the time being shall nominate such person or persons as shall make the number of the commissioners five, which shall have all the power given the said commissioners in this Act, and shall so continue till the next meeting of the General Assembly of this Province, who shall then chose so many persons as shall make up the full number of nine; which persons so chosen by an ordinance of a General Assembly, shall, and are hereby declared to, be the commissioners and trustees required by this Act; and they, or any five of them, to have and execute all and singular the powers given the commissioners above named by this Act.

Names of commissioners.

Vacancy, how to be filled.

IX. *And be it further enacted* by the authority aforesaid, That the commissioners above named, after having examined the respective books belonging to the library aforesaid, if they find any books wanting, shall summons such persons as have the said books in their custody, to deliver the same in twenty days after such notice in writing left with the persons, or their places of abode; and in case any persons shall fail or refuse to deliver the said respective books to the said commissioners, or any five of them, that upon complaint being made by the said commissioners, or any five of them, to the chief justice of this Province, for the time being, or any two justices of the peace, against such persons refusing to deliver the said books, that the said chief justice, or any two justices of the peace, are hereby authorized, empowered and required, by warrant of distress, directed to any of the constables of this Province, to levy to the treble value of such respective book or books, on the goods and chattels of the person or persons so refusing the same, and to make sale of the same, rendering the overplus to the owner; and for want of such distress, to commit the persons to prison till satisfaction be made.

Defaulters to be summoned.

X. *And be it further enacted* by the authority aforesaid, That all persons that have borrowed or have in their custody any of the books belonging to the provincial library aforesaid, shall, on or before the first day of January next, return the same to the present incumbent of Charlestown, upon the penalty of the forfeiture of treble the value of each book

Books to be returned by 1st January.

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not returned as aforesaid, the better to enable the commissioners before named to make a perfect catalogue of the books belonging to the library aforesaid.

Read three times, and ratified in open Assembly, November 16, 1700.

JAMES MOORE, (L. S.)
JOHN WICH, (L. S.)
EDMD. BELLINGER, (L. S.)
ROBERT GIBBES, (L. S.)
HENRY NOBLE, (L. S.)

No. 173. AN ACT TO PREVENT THE SEA'S FURTHER ENCROACHMENT UPON THE WHARFF OF CHARLESTOWN.

Preamble.

WHEREAS, the seas, in a few years last past, by frequent storms, hath undermined and broken down more of the bank bounding upon Cooper river, before Charlestown, than is now standing, and will probably in a few years, (if timely care be not taken,) break down and carry away all the remaining wharff, with the houses next thereon standing; for the prevention thereof,

Brick walls to be built.

I. *Be it enacted*, by his Excellency John Earl of Bath, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown, for the South-west part of this Province, and it is enacted by the authority of the same, That every person or persons which hold, by what title soever, any lot or lots, or part of any lot or lots, which joyn next immediately to that part of the northernmost end of the fort to the northernmost part of Col. Robert Daniel's northernmost lot, butting upon Cooper river, shall, within twenty-four months next after the ratification hereof, make, or cause to be made, before so much of the wharff as lies before all the land he hath pointing to Cooper river, within the limits aforesaid, a brick wall, the length of four bricks thick at least, at the foundation, and two bricks and a half thick at top, in such manner as is hereafter provided; and the said wall, with the filling up, shall be kept in repair at the sole costs and charges of every respective owner thereof.

Stairs and wharfs.

III. *And be it further enacted*, That every person as aforesaid shall have liberty to make such and so many stairs and places for conveniency of ascent to the top of his respective wall, and also wharffs to low-water marks, as he shall think fit; *provided*, the said stairs or wharffs do not weaken the said wall.

No house to be erected to the eastward of the said wall.

V. *And be it further enacted* by the authority aforesaid, That no persons whatsoever shall, upon any pretensions whatsoever, erect or build any house or edifice than what in this Act is directed, on the bay of Charlestown, to the Eastward of the said wall; and if any person or persons whatsoever shall presume to build or erect any house or edifice to the Eastward of the said wall, as aforesaid, shall forfeit the sum of five hundred pounds, to be recovered by bill, plaint or information, in any court of record within this part of the Province, wherein no essoign,

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priviledge, delay, protection or wager of law, shall be allowed or admitted, one moiety or half part thereof to be paid into the hands of the receiver, for the public use of this Province, and the other half part to such person or persons that shall or will inform or sue for the same.

VII. And for the further encouragement of the owners of the front lots, *Be it also enacted*, That every owner that hath or shall hereafter build a brick house at least two stories high, are hereby permitted and impow- Encourage-
ment for build-
ing. ered to build piazzas, not exceeding six foot, in the said wharff or front lots, with steps in the said piazzas up to the said house.

XII. *Be it enacted*, That all the grants of any lot or lots, lying to the Eastward of the same front part, to any person or persons whatsoever, are hereby declared null and void; any thing in the said grant contained Grants of lots to
the eastward of
the wall null
and void. to the contrary notwithstanding.

(Sections II. IV. VI. VIII. IX. X. XI. and part of XII. not to be found.)

Read three times, and ratified in open Assembly, November 16, 1700.

JAMES MOORE, (L. S.)
JOHN WICH, (L. S.)
EDMD. BELLINGER, (L. S.)
ROBERT GIBBES, (L. S.)
HENRY NOBLE, (L. S.)

AN ACT FOR SETTLING A WATCH IN CHARLESTOWN, AND FOR PRE-
VENTING OF FIRES AND NUSANCES IN THE SAME, AND FOR THE
SECURING TWENTY FOOT ON EACH SIDE THE HALFE-MOON, FOR PUBLICK
LANDING PLACES.

No. 190.

FORASMUCH as the constables have been very remiss and negligent in keeping the watch in Charlestown, which at all times ought to be duly and strictly observed and performed, more especially since the late fatal and dismall conflagration, and for the better preservation of the said town, and for keeping good orders, and a more carefull and strict watch therein—
(Section I. too much mutilated.)

Preamble.

II. And *whereas*, severall houses in Charlestown are inhabited by families amongst whom are no male persons, but are well able to bear the charges of hiring a man to watch, *Be it enacted*, That every such family shall find a man to watch, and the counstables in the lyst aforesaid shall returne such familys, and every such person so returned that shall neglect or refuse to send an able man, as is hereafter provided, shall forfeit the same sune, to be recovered in such manner and forme, and for such use, as the forfeitures of those that shall neglect to watch in their own person; and the aforesaid counstables shall have such fees as in the Act of small and mean causes.

Families to fur-
nish a watch.

III. *And be it further enacted* by the authority aforesaid, That the commissioners hereafter nominated, or any three of them, are hereby impow- Watch-house
to be built. ered to build a brick watch house, capable of containing thirty men, with arms, and so many centry boxes as they shall think necessary

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for the better security of the watch, and the same shall order to be placed in such places in Charlestown as they shall think fitt; and the commissioners aforesaid, or any three of them, are hereby impowered, by an order under their hands to the public receiver, to draw out of the public treasury such sume or sumes of money, for building the said brick house and boxes, as shall be expended therein.

Substitute to
be approved of.

IV. And that none but good, able, and sufficient men may be by any person employed to watch in his stead and place, *Be it enacted*, That no person shall put any man to watch in his stead which shall not be first allowed and approved of by a certificate under the hand of a justice of peace, in Charlestown; and every person which shall send any man to watch for him not approved of as aforesaid, shall forfeit as if he had not watched, or not provided any man in his room.

Person sleep-
ing on watch,

V. *And be it further enacted*, That any person or persons whatsoever, found sleeping upon watch as aforesaid, being convicted thereof before a justice of the peace, shall forfeit forty shillings, one moyety thereof to be paid into the hands of the publick receiver, for the use of the publick, and the other moyety or halfe part to him or them that will informe and sue for the same; and if any person aforesaid, being found sleeping as aforesaid, and convicted as aforesaid, shall refuse and deny to pay the forfeiture as aforesaid, shall, by order of the justice, be tyed neck and heels, two hours next morning, after such conviction.

Negroes when
to be taken up.

VI. *And whereas*, negroes frequently absent themselves from their master's or overseer's houses, caballing, pilfering, stealing and playing the rogue, at unseasonable hours of the night, *Be it therefore enacted*, That any constable or his deputy, meeting with any negro or slave, belonging to Charlestown, at such unseasonable times as aforesaid, which cannot give a good and satisfactory account of his business, the said constable or his deputy, is required to keep the said negro or slave in safe custody till next morning; and first having caused the said negro or slave to be severely whipt, then to bring the said negro or negroes to their said master or masters, or owners of said slaves; and for so doing, each master, masters or owners, shall pay unto the said constable or his deputy, two shillings and six pence for each negro or slave: And if any constable or deputy constable shall refuse or neglect to whip, or cause to be whipt, such negro or slave, after taken as aforesaid, shall forfeit for each refusall or neglect, the sum of two shillings and sixpence, to him or them that shall informe for the same, to be levied by a warrant under the hand and seal of any justice of the peace, directed to a constable for that purpose.

Duty of con-
stables.

Lots to be
cleared.

VII. *And be it further enacted*, That every person that hath in possession, or doth own or clayme any right, title or interest to any lott or lotts, halfe lotts or lessor part of any lott or lotts in Charlestown, within a straight line drawn from the head of Coll. Daniels's creek to the head of the marsh going down to the old burial place, where the commissioners hereafter shall appoint, some time within three months after the ratification of this Act, and so for every six months, shall cutt down and burn all young pine trees or pine bushes, and by the roots dig up all other sorts of bushes, brushses, all weeds and under wood, and the same burn or carry off, which are growing or lying upon their respective lott or lotts, or any lessor part of a lott, within the time appointed, shall forfeit twenty shillings for each lott containing halfe an acre of land, and so proportionably

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for every part of a lott, either greater or lessor than halfe an acre, to be leveyed by warrant of distress, under the hand and seale of a justice of the peace, and paid to the commissioners of the poor, to the use of the poor.

VIII. *And be it further enacted*, That from and after the ratification of this Act, that it shall and may be lawful for any person or persons whatsoever, (slaves excepted) to kill, or take and carry away, alive or dead, all or any goats goeing loose in Charlestown; *provided*, and it is hereby declared, that every person or persons so killing, taking, or carrying away such goats, shall, within two hours after such goats are taken, killed and carryed away, cry, or cause to be cryed, the same, in four severall and usual places in Charlestown. Goats.

IX. *Whereas*, there are several houses of offices, or privy houses, which are very offensive to the inhabitants in Charlestown; and for the better preventing the same, *Be it enacted*, That all persons, inhabitants of said town, that hath any such houses of offices, or privy houses, that are so deemed by any two of the commissioners, shall, in two months from and after the ratification of this Act, fill up and cover the same with dirt and other rubbish, so that the said nusances may be prevented, under the penalty and forfeiture of twenty shillings for each month they neglect to fill up and cover the same, the penalty or forfeiture to be leveyed by warrant, under the hand and seale of any justice of peace, the one halfe to the informer, the other halfe to be delivered to the commissioners of the poor for the use of the poor. Privy houses.

X. *And be it further enacted* by the authority aforesaid, That every person that fills up all such houses of offices, or privy houses, that shall be deemed nusances by any two of the commissioners hereafter appointed, when so filled up, shall, after so filling up and covered, keep tubbs or some other small vessells in their houses of offices, or privy houses, in order to preventing of nusances, and to empty them once a week, under the penalty and forfeiture of five shillings for every such offence, to be leveyed by a warrant from under the hand and seale of any justice of peace, to the use of the poor aforesaid.

XI. *And be it further enacted* by the authority aforesaid, That no person or persons whatsoever, after the ratification of this Act, shall build, or cause to be built, any chimney in any place within the limits of Charlestown, but such as shall be made of stone, brick, or both, on penalty of five pounds upon him or them at whose charge such chimney or chimneys shall be built. Chimnies.

XII. *And be it likewise enacted*, That any person or persons, owning by inheritance, mortgage, or lease for seven years, any building in Charlestown, which hath a wooden chimney, that is deemed or taken by the commissioners hereafter named, or any three of them, to danger the firing the said buildings or neighbours houses, the claimer or owner of such buildings or chimneys, shall, within one month after notice given him or them by the said commissioners, or any one of them, pull down, or cause to be pulled down, the said wooden chimneys to the ground, and cause no chimneys to be built in the place thereof, but such as shall be made of stone or brick, on penalty of five pounds for each default and neglect. Chimnies.

XIII. *And be it further enacted and declared* by the authority aforesaid, That if any fire shall hapen to break out in any part in Charlestown, already built, or hereafter shall be built in the said town, that the commissioners hereafter named, or any three of them, shall or may, and are hereby Fire.

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impowered, to give all such directions for the pulling down or blowing up any such house or houses, that shall be by them adjudged meete to be pulled down or blown up, for the stoping or preventing the further spreading of the same; and if it shall happen that the pulling down or blowing up any such house or houses, by the directions aforesaid, shall be the occasion of stoping the said fire, or the fire stops before it comes to the same, and not otherwise, then all and every owner of such house or houses, shall receive satisfaction and be paid for the same, by the rest of the inhabitants in Charlestown, whose houses shall not be burnt; and the commissioners are hereby impowered to make such rate or rates for the raising and levying such sume or sumes of moneys, as shall be thought convenient by the said commissioners; *provided alwayes*, that if that house where the fire shall first begin and break out, shall be adjudged fitt to be pulled down, to hinder the further spreading and increasing of the same, that then the owners of such house shall receive no manner of satisfaction for the same; any thing in this Act or any other Act to the contrary notwithstanding.

Chimnies
taking fire.

XIV. *Whereas*, there is several complaints, that most of the inhabitants of Charlestown are very negligent in not sweeping and keeping their chimneys clean from sutt, which often times occasions the firing the said chimneys, and so endangers the firing the house, or house adjoining to the same; *Be it therefore enacted* by the authority aforesaid, That if any chimney or chimneys in Charlestown, after the ratification of this Act, hapen to catch or take fire, the person or persons living in the said house or tenement where the said chimney or chimneys that so catches or takes fire, shall forfeit twenty shillings, to be leveyed by a warrant from under the hand and seale of any justice of the peace, one halfe to the informer, and the other halfe to be delivered to the commissioners of the poor, for the use of the poor.

Engine, ladders,
fire hooks,
&c.

XV. *Whereas*, it is very necessary that there should be severall ladders, fire-hooks and leather buckets, for the benifitt of preventing the further encreasing and quenching of fires that may hapen in any house or houses in Charlestown; *Be it therefore enacted* by the authority aforesaid, That within nine days after the ratification of this Act, there shall be leveyed and assest on all the houses and tenements in Charlestown, the sume of one hundred pounds, current money; each owner and tenant of every respective house to be assessed and leveyed by Mr. Thomas Smith, Mr. John Croskeys, William Smith, Esq., Mr. Robert Fenwick, and Capt. Alexander Parris, or any three of them, who are hereby appointed commissioners pursuant to this Act, untill the said sum of one hundred pounds be raised; and the said commissioners are hereby impowered to assess and levy the same, each house and tenant to be assessed according to its value and ability, as the said commissioners shall judge; and when the said money is received by the commissioners, they, or any three of them, shall lay out and buy, for the only proper use of Charlestown, one engine for quenching of fire, six ladders of severall sizes, fifty leather bucketts, and six fire-hooks, and such other necessarys as they shall think convenient for the security of said town, all which shall be kept and preserved in such place or places as the commissioners aforesaid shall order or appoint.

Commissioners
appointed
to assess.Penalty for
neglect to pay.

XVI. *And be it further enacted*, That if any of the inhabitants aforesaid shall neglect or refuse to pay his assessment of the one hundred pounds as aforesaid, the commissioners aforesaid, or any three of them,

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are hereby impowered, by a warrant under their hands and seales, to any one or more of the councstables of Charlestown, who are hereby, under the penalty of five pounds for every default, commanded to execute the same, to make distress upon the goods and chattels of every person or persons which shall refuse to pay his or their respective taxes and assessment as aforesaid; which distress, three days after taken, they shall cause to be sold in Charlestown, at a publick outcry, and the overplus, after the tax and charges are paid, to return to the owner.

XVII. *And further be it enacted* by the authority aforesaid, That if there should be any money of the aforesaid hundred pounds left, after the aforesaid engine, ladder, buckets and fire-hooks are bought, the remaining part of said money so left shall remaine in the said commissioners hands, to be by them, or any three of them, laid out for the necessary and publick use of Charlestown, as the said commissioners, or any three of them, shall deem convenient. Surplus.

XVIII. *And be it further enacted* by the authority aforesaid, That in case any of the commissioners, or any other hereafter appointed, shall depart this life, or go out of this Province, the Governor for the time being is hereby impowered and authorized to appoint another in his or their roomes, which person so named and appointed shall have the like power as the aforesaid commissioners have or shall have. Vacancy in
commissioners
how filled.

XIX. *Be it also enacted* by the authority aforesaid, That if any slaughter house, cattle penn, sheep penn, hogg sties, or other thing whatsoever, erected, lying or being in Charlestown, which the commissioners aforesaid shall judge a nuisance, shall not be removed by the person or persons that occasions the same, within ten days after notice given him or them by any one of the commissioners, shall forfeit forty shillings for each month the said nuisances continues, to be recovered by a warrant under the hand and seale of any justice of the peace, one halfe to be paid to the commissioners of the poor for the use of the poor, the other halfe to the informer. Slaughter
houses, &c.

XX. *Whereas*, the streets in Charlestown, after rains, in many places, especially the most frequented parts of the said town, is then much overflowed with water, and makes it very unfitt, illconvenient and unpassable; *Be it therefore enacted* by the authority aforesaid, That every person or persons, living and dwelling in Charlestown, whom the commissioners aforesaid, or any three of them, shall order or appoint, shall, within four months after such order and appointment, mend and raise the breadth of the fronting part of that lott which belongs to the house they live in, either in street, lane or alley, with broken oyster shells, six foot, upon a direct line, into the street, lane or alley, so that it shall be adjudged sufficient by the commissioners aforesaid. And all such houses that bounds or butts on either streets, lanes or alleys, within the limits aforesaid, wherein no person dwells, then the owners of the said houses, being thereunto ordered by the commissioners aforesaid, shall, within the time aforesaid, after such order, raise and mend their part of each lott as aforesaid; and every person or persons that shall neglect doing the same, shall forfeit for each house, with that part of the lott belonging to the same so fronting, twenty shillings, to be recovered by a warrant from under the hand and seale of any justice of the peace, to be paid into the hands of the commissioners aforesaid, towards the mending the other parts of the streets, lanes and allies of Charlestown, as they shall think fit and convenient. Side walks.

Lots unoccu-
pied.

XXI. *And whereas*, a halfe moon is built at the East end of Cooper street, for the security of Charlestown, and the defence of this part of the

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places.

Province; *Be it therefore enacted* by the authority aforesaid, That twenty foot of the front before the land of Mr. Benjamin Schinckling, next adjacent to the said halfe moon, and twenty foot of the front before the land of Mrs. Elizabeth Clapp, next adjacent to the said halfe moon, be, and are hereby, for two publick landing places, ordained and appointed to be built, as shall be directed by the commissioners nominated and appointed in an Act intituled "An Act to prevent the Sea's further encroachment upon the wharfe of Charlestown;" any thing in the said Act contained to the contrary notwithstanding.

Appropriation.

XXII. *And be it further enacted*, That the commissioners in the fore-recited Act appointed, are hereby impowered, for building the said twenty foot on each side the said halfe moon, to draw out of the publick treasury, by an order under their hands, such sume and sumes of money as are necessary for building the same.

Acts repealed.

XXIII. *And be it further enacted* by the authority aforesaid, That "An Act for settling a watch in Charlestown, and for preventing of fires," ratified in open Assembly the eighth day of October, one thousand six hundred ninety-eight; and the last paragraph, relating to the said watch, in an Act intituled "An additional Act for making and mending high-ways," ratified in open Assembly, the first day of March, one thousand seven hundred—are hereby declared repealed, annulled and made void; any thing in the fore-recited Act, and the last paragraph in the said additional Act contained, to the contrary notwithstanding.

Duration of
Act.

XXIV. *And be it further enacted*, That this Act, and every thing therein contained, do continue in force for and during the space of three years after the ratification hereof, and no longer, except the paragraph wherein is appoynted and reserved twenty foot on each side the halfe moon, for public landing places, which is, and is hereby declared to be, perpetuall.

*Read three times and ratified in open Assembly,
the twenty-eighth of August, 1701.*

JA. MOORE,
JOS. MORTON,
ROBERT DANIELL,
For the Earl Craven,
EDMD. BELLINGER,
ROBT. GIBBES.

No. 207. AN ACT FOR THE KEEPING AND MAINTAINING A WATCH AND GOOD ORDERS IN CHARLES TOWN.

Preamble.

WHEREAS, the constables who hitherto have had the care and charge of the watch in Charles Town, have been very remiss and negligent therein, which at all times ought to be duely and strictly observed and performed, and more especially in this time of warr and eminent danger; for the better preservation of the said town, and for the keeping good orders and more carefull and strict watch therein,

1. *Be it enacted*, by his Excellency, John Granville, Esqr. Palatine, and the rest of the true and absolute Lords and proprietors of this Province,

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by and with the advice and consent of the rest of the members of the General Assembly, now met at Charles Town, for the south-west part of this Province, and by the authority of the same, That the watch of Charles Town shall consist of a Captaine and Lieutenant and twenty-four men; that the Captaine and Lieutenant be nominated, commissioned and appointed by the Governour or Commaneer-in-chief of this Province for the time being; and that the twenty-four men be listed by the Captain, and that they be under military discipline; and that they be turned out and cashiered at the pleasure of the Governour or Commander-in-chief of this Province for the time being.

Officers of the Watch.

II. *And be it further enacted* by the authority aforesaid, That within thirty days after the ratification of this Act, there shall be a watch every night kept at Charles Town, consisting of sixteen men, and that the Captain or Lieutenant shall give due attendance every night in the year; and the said Captain and Lieutenant shall, from time to time, observe, perform and keep all such orders and directions for the managing and keeping of the said watch, as they shall from time to time receive from the Governor or Commander-in-chief of this Province, or the deputy Governor thereof, under the penalty, for every neglect thereof, or offence committed, (and being thereof convicted before any one justice of the peace of this Province,) of forfeiting the sume of forty shillings, to be abated out of their pay or salary hereafter mentioned; and the said twenty-four men shall, from time to time, observe, perform and keep all such orders and directions for the better keeping the said watch, as they shall from time to time receive from their Captain or Lieutenant, upon the penalty, for every neglect thereof, or offence committed, (and being thereof convicted before any one justice of the peace of this Province,) of forfeiting twenty shillings, to be deducted out of his or their pay or salary hereafter mentioned, or of suffering such corporall punishment as the Captain or Lientenant, for such fault, by special orders and instructions from the Commander-in-chief, shall inflict upon, or order to be inflicted upon, him or them, not extending to life or limb; the said corporall punishments to be such as are usually used as military punishments.

Penalty for neglect.

III. *And be it further enacted* by the authority aforesaid, That the Captain or the Lieutenant shall, in the night time, have the command of all such watchmen as shall be appointed to keep watch in Charles Towne, and shall see that they have their arms in order; and the said Captain and Lieutenant by virtue thereof, during the time of their commanding the said watch, shall have all the authorities that any constable of Charles Towne hath, by any law or custome by virtue of his office, and shall may lawfully do and execute any matter or thing in the said Towne, in the night, as fully, amply and authentically as any constable ought or may lawfully do; and in case any persons shall resist or oppose the said Captain or Lieutenant, or any of the watchmen aforesaid, in the execution of their office, and acting in pursuance of the orders of their said Captain or Lieutenant, that such person so offending shall be liable to such punishment or penalties as by law they are subject to for resisting and opposing the constable; and the said Captain and Lieutenant are hereby enjoyned to give in charge to the watch, to see that all disturbances and disorders in the night, be prevented or suppressed; and to examine all persons, (whom they shall see walking abroad in the night after the tatoo,) of their business abroad at such season, and whither they are going, unless they be known to be orderly and peaceable persons; and in case

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they give not reasonable satisfaction therein, or are persons of ill behaviour, or justly suspected to have any unlawfull intention or designe, then to secure all such disorderly and suspicious persons untill the morning, and then to carry them before one of the next justices of the peace, to be examined and proceeded against, according to the nature of their offence, and as is by law directed.

IV. *And be it further enacted* by the authority aforesaid, That the Captain or Lieutenant of the watch, with what number of watchmen he may think fitting, shall have power, at any time of the night, to enter into any publick house in Charles Towne, and shall have power to examine all such persons as they shall find in the said houses, and have just reasons to suspect disorderly persons, and may secure them in order to carry them the next morning before a justice of the peace; and in case they find any saylers in any of the public houses after the watch is sett, that they do immediately secure them till the next morning, and then carry them before a justice of the peace, and in case they do not make it appear to the satisfaction of the said justice of the peace, that they have leave from their Commanders to be absent from their vessels and business, that each sayler so offending shall forfeit the sum of five shillings, to be paid and distributed equally between the Captain or Lieutenant of the watch, and the watchmen that took such sayler; and in case any sayler so convicted before any justice of the peace as aforesaid, shall refuse to pay the said five shillings as ordered by the said justice, it shall be lawful for the said justice to committ the said sayler to prison, till payment be made; and in case the Master or Commander shall pay the said forfeiture for any sayler belonging to his ship or vessell, it shall be lawful for him to deduct it out of his wages; and the master of such publick house in which such sayler is found and convicted as aforesaid, shall forfeit also five shillings, to be distributed as aforesaid, which said forfeiture, if not paid, shall be levyed by warrant of the justice of the peace, by distress and sale of the offender's goods, returning the overplus, after the necessary charges deducted.

V. *And be it further enacted* by the authority aforesaid, That all and every watchman that shall be ordered to keep watch in Charles Towne, shall be well and compleatly armed and fixed with ammunition, as any soldier or inhabitant is ordered and directed by the Act entitled "An Act for the better settleing and regulating the militia, and for appointing look-outs."

VI. *And be it further enacted* by the authority aforesaid, That if any watchman that shall watch in Charles Town, after he or they are put upon duty, shall be drunk, or make themselves incapable to perform their trust, or shall sleep upon the watch, he or they so offending, being thereof convicted before any one justice of the peace of this province, shall forfeit twenty shillings, to be abated out of his wages, and further, shall undergoe such military corporall punishment, (life and limb excepted,) as the Captain of the watch shall think fitt, by order and instructions of the Commander-in-chief.

VII. *And the better to encourage* the Captain, the Lieutenant, and the twenty-four listed watchmen, to be diligent and faithfull in their severall duties and stations, *Be it further enacted* by the authority aforesaid, That the Captain be paid and allowed to him the sum of thirty pounds per annum current moneys of this Province; and that the Lieutenant be paid the sum of twenty-five pounds per annum, like current moneys; and

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that each listed watchman be paid twenty pounds per annum, like current moneys; to be paid quarterly, by the commissioners hereafter mentioned, the first quarterly payment to be made on the first day of September next, after the ratification of this Act; and the second, on the first day of December following; the third on the first day of March; and the fourth, on the first day of June.

VIII. *Whereas*, in order to the paying the above mentioned salaries, and the defraying the other necessary charges of the watch of Charles Towne, as above directed, it is necessary that an annuall revenue be raised, amounting unto the sume of five hundred and fifty pounds; *Be it therefore further enacted* by the authority aforesaid, That in order to the raising the said sume of five hundred and fifty pounds annually, that every person within the towne that is capable of bearing arms, or that by any law or custome whatsoever is or hath been obliged to watch, or provide a fit person to watch, in the Constable's watch, do pay quarterly, unto the commissioners hereafter named, at the rate of twenty shillings per annum; and that every single woman that is a house-keeper, and that by any law or custome whatsoever in this province did or ought to have provided a watchman in the constable's watch, shall also pay quarterly, unto the commissioners hereafter named, at the like rate of twenty shillings per annum; and what the duty of twenty shillings per annum, to be paid quarterly as aforesaid, shall fall short each quarterly payment of the sume of one hundred thirty-seven pounds tenn shillings, being the fourth part of the said sume of five hundred and fifty pounds, that the residue shall be raised quarterly by an equall assessment upon each person's estate, reall and personall, that lives or inhabitts within the bounds of the towne, the bounds of which, as by the last mentioned assessment, to be computed as far as Mr. Christopher Smith's and Mr. John Bird's, inclusive; and also, by assessment on the estates in towne of all such persons as have houses or lands in Charles Towne, though they do not inhabit within the bounds of the towne.

IX. *And be it further enacted* by the authority aforesaid, That Lewis Pasquerau, James Ingerson, Thomas Cutler, William Gibbons and Edward Loughton, shall be the assessors for this Act; and they, or any three of them, upon their oaths, administered by any one justice of the peace of this province, shall be, and are hereby, appointed and impowered to meet att Charles Towne, on or before twenty days of each respective quarterly day of payment; and shall make a roll or schedule of the names of all such persons as by this Act are required to pay quarterly at the rate of twenty shillings per annum; and upon computing the said roll or schedule, and finding what the same shall fall short of one hundred and thirty-seven pounds tenn shillings, being the fourth part of the said sume of five hundred and fifty pounds, shall then make an assessment upon the estates of such persons as by this Act are before ordered to be assessed, to make up the full sume of one hundred and thirty-seven pounds tenn shillings; and the said names of the persons in the first roll or schedule, and the said assessment in another schedule, signed and sealed by them, the said assessors, or any three of them, shall, from time to time, deliver to the commissioners hereafter named, who, by themselves or deputy or deputies, whome they shall appoint, shall give notice to all and every person concerned, (either in the first roll or schedule, or the schedule of the second assessment, which is to make up what the first shall fall short of the said sume of one hundred and thirty-seven pounds

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tenn shillings,) or to their attorneys or agents, how much money he or she is to pay in the whole; and if the said person or persons, or some other person for them, doe not, within tenn days after such notice given, pay unto the commissioners hereafter named, or whom they appoint, the sume of money he or she is to pay, that then it shall be lawfull for the said commissioners, or any two of them, and they are hereby authorized and required, by warrant of distress under their hands and seals, directed to any of the constables of this Province, to levy the same by distress on the goods and chattles of the persons soe neglecting or refusing to pay, and to sell and dispose of the goods so distrained, returning the overpluss, after charges deducted; and for want of such distress, to commit the person to prison till payment be made.

Right of appeal.

X. *And be it further enacted* by the authority aforesaid, That if any person or persons certified, assessed or rated, for or in respect of any matter or thing by which, by this Act, he or they is rated or charged, doe find him or themselves grieved or overcharged by such rateing, in five days after notice given them of such assessment, may complain or appeal to any one justice of the peace, inhabitant of Charles Towne, who shall or may examine any person or persons so complaining, upon his or their corporall oaths, touching the value of his or their reall and personall estates as aforesaid, and upon due examination, abate or defaulte proportionably the said assessment; and the same so abated shall be certified by the justice aforesaid, to the commissioners aforesaid, and such assessment so certified as aforesaid shall be deemed firme and valid in law.

Vacancy how filled.

XI. *And be it further enacted* by the authority aforesaid, That in case any of the above mentioned assessors shall happen to die or remove from Charles Towne, that so there be not the full number of five, that then the Governour for the time being is hereby requested and authorized to appoint so many person or persons in Charles Towne to be assessors, as shall make up the number of five, which shall so continue, unless removed by an ordinance of the General Assembly.

Commissioners powers.

XII. *And be it further enacted* by the authority aforesaid, That Alexander Paris, James Serurier Smith and William Weekly, or any two of them, be, and are hereby, nominated and appointed the commissioners mentioned in this Act, and to exercise all the authorities and powers given them as commissioners in this Act, and for the disposing of all moneys to be raised and laid out by virtue of this Act; and the commissioners aforesaid are nominated and appointed receivers of all the money to be raised by virtue of this Act, to be paid out by them, or any person or persons by them or any two of them deputed; which money shall be laid out by the commissioners aforesaid, for the paying the Captain, Lieutenant and Watchmen their wages or salary, upon certificate from the Generall or any other commission officer of the watch, by him thereunto empowered, which amounteth to the sume of five hundred and thirty-five pounds per annum; and the other fifteen pounds, being the residue of the sume of five hundred and fifty pounds per annum, to be paid and expended for fire and candles and other contingent charges relating to the watch.

Vacancies how filled.

XIII. *And be it further enacted* by the authority aforesaid, That in case any of the said commissioners shall happen to dye or remove from Charles Towne, or refuse or neglect to doe his duty by this Act required, then the Governour for the time being is hereby requested and authorized to appoint some other inhabitant of Charles Towne to be commissioner or commissioners in the place of him or them so

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deceased, or that shall live out of Charles Towne, or neglect or refuse his duty as aforesaid; which said commissioners so appointed by the Governour as aforesaid, shall continue as such, unless removed by an ordinance of the Generall Assembly.

XIV. *And be it further enacted* by the authority aforesaid, That all and every assessor and commissioner appointed by virtue of this Act, which shall refuse or neglect to do and perform what by this Act he or they are required, shall forfeit, for every offence, the sume of five pounds; one half to the right honourable the Lords proprietors of this Province, to be disposed of by an ordinance of the General Assembly, the other half to him or them that will sue for the same in any court of record in this province, by action of debt, bill, plaint or information, wherein no essoin, protection, privilege, injunction, wager of law or stay of prosecution, by *non vult ulterius prosequi* or otherwise, shall be admitted or allowed. Penalty for neglect of duty.

XV. *And be it further enacted* by the authority aforesaid, That the Captain of the watch or the Lieutenant and eight of the watchmen, who shall take it by turns, shall be obliged every Sunday, and other publick days, to attend the Governour, morning and evening, and to church in Charles Towne; and on other solemn and extraordinary occasions, all the whole watch shall be in arms, and attend as the Governour shall order and direct; and in case any of the watchmen shall refuse or neglect his duty therein, when thereunto required, or shall not procure some one other of the said twenty-four watchmen to officiate for him, that for every such offence he shall forfeit twenty shillings, to be deducted out of his salary. Watch to attend the Governor to church.

XVI. *And be it further enacted* by the authority aforesaid, That the commissioners aforesaid, or any two of them, shall have power to buy or provide bucketts, fire-hooks and ladders for the use of Charles Towne, in case of fire; and the charges that the same doth amount to, shall be raised by an equall assessment upon the estates in towne of all persons living in towne, or that have houses in towne; the bounds of the towne, in this case, to be computed according to the platt of the towne; and the assessors mentioned in this Act are hereby authorized to assess the same, and the commissioners are hereby authorized to levy the same, according to such powers as is given them by this Act for the levying of the other assessments before mentioned. Buckets, fire-hooks and ladders.

XVII. *And be it further enacted* by the authority aforesaid, That if in case a peace should happen to bee concluded between the Crowne of England and the Crowns of France and Spain, before the expiration of this Act, it shall and may be lawfull for the right honourable the Governour for the time being to lessen the number of the said watchmen, as he shall see convenient, untill the next session of Assembly next following. Watch may be reduced.

XVIII. *And be it further enacted* by the authority aforesaid, That this Act, and every thing therein contained, shall continue and be of force three years, and from thence to the end of the next session of the Generall Assembly, and no longer. To continue of force for three years.

*Read three times, and ratified in open Assembly,
the 8th day of May, 1703.*

N. JOHNSON,
THOS. BROUGHTON,
JAS. MOORE,
ROBERT DANIEL,

EDMUND BELLINGER,
ROBT. GIBBES,
HENRY NOBLE.

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No. 219. AN ADDITIONAL ACT TO AN ACT ENTITULED "AN ACT TO PREVENT THE SEA'S FURTHER ENCROACHMENT UPON THE WHARFE AT CHARLES TOWN;" AND FOR THE REPAIRING AND BUILDING MORE BATTERYS AND FLANKERS ON THE SAID WALL TO BE BUILT ON THE SAID WHARFE; AND ALSO FOR THE FORTIFYING THE REMAINING PARTS OF CHARLES TOWN BY INTRENCHMENTS, FLANKERS AND PALLISADOES, AND APPOINTING A GARRISON TO THE SOUTHWARD.

Preamble.

WHEREAS, by an Act entituled "An Act to prevent the sea's further encroachment upon the wharfe at Charlestowne," ratified in open Assembly, the sixteenth day of November, in the year of our Lord one thousand seven hundred, every person that holds by grant, or any mean conveyance, any lott, or part of a lott, fronting the wharfe at Charlestowne, is bound, under certain penalties, as is provided in the said Act, to build the front wall, according to such method as is prescribed in the said Act; *and whereas*, amongst other things contained in the said Act, it is enacted, that for the better security and defence of the said towne, a wall of three foot high and two bricks thick, shall be made and built upon the aforesaid wall, from the Northermost end of the fort to the Northermost end of the front wall, at the sole charge and expence of the publick; which clause, by reason of the limitation of the highth of the wall, may be very inconvenient, some places requiring the wall that is to be built over the wall that is built by the inhabitants, to be built higher than other places; in order to make the whole wall, when finished, usefull and uniforme,

Sea wall to be built.

I. *Be it therefore enacted* by his Excellency John Granville, Esquire, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now mett at Charlestowne, for the South-west part of this Province, and it is enacted by the authority of the same, That for the better security and defence of Charlestowne, that the wall to be built upon the aforesaid wall, at the sole charge and expence of the publick, be built such highth and thickness, and according to such method and manner, as the commissioner hereafter named, by and with the advice and consent of the Right Honorable Sir Nathaniel Johnson, Knight and Governor, or the Governor for the time being, of this Province, shall direct.

Platform.

II. And *whereas*, the platforme fronting South-street is fallen so far to decay that the same must be pulled down and rebuilt; *Be it also enacted* by the authority aforesaid, That the said platforme shall be rebuilt at the sole charge and expence of the publick, in such method and forme, and according to such dimentions, as the commissioner hereafter nominated, by and with the advice and consent of the Right Honorable the Governor aforesaid, shall direct.

Battery

III. *Whereas*, there is a battery ordered to be built at the East end of the said South-street, so that a publick landing cannot be there made without great prejudice to the said battery; *Be it therefore enacted* by the authority aforesaid, That all the front before the land of Mr. Robert Tread, next adjoining to the north side of the said battery to the Southward-most end of the front wall of Elias Clifford's, is hereby reserved for a publick landing, to be built at the charge of the publick, by an order of the commissioner aforesaid, in such manner and forme as the landing at the North side of the halfe moone, at the East end of Cooper-street; any Act or Statute to the contrary notwithstanding.

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IV. *And be it further enacted* by the authority aforesaid, That a battery, capable of containing six guns, on the northermost angle of Col. Robert Daniel's northermost lot, fronting Cooper river, shall be erected; and also one other small flanker, capable of containing four guns, shall be built between the halfe moon and the said battery on Col. Daniel's lott, both which shall be built at the sole charge and expence of the publick, in such method and forme, and according to such dimentions and place, as the commissioner hereafter nominated, with the advice and consent of the Governor as aforesaid, shall direct.

V. *And be it further enacted* by the authority aforesaid, That Lieut. Col. William Rhett be, and he is hereby appointed, the sole commissioner for manageing the whole affair of the said front wall and the severall forts, platformes, halfe moones, batteries and flankers, built and to be built upon the said wall; and that he, the said William Rhett, have all the powers and authorities that are given to the severall commissioners, or a quorum of them, for carrying on the building the front wall; and in case of his death or sickness, the Right Honorable the Governor is hereby impowered to appoint another, who shall have all the powers given the said William Rhett by this Act.

VI. *And be it further enacted* by the authority aforesaid, That the said William Rhett, the commissioner above named, besides the powers and authorities given him by the last recited Act, shall have power to press brick-layers living in any part of this Province, to worke on the said front wall and fortifications, att the rate of four shillings per thousand laying the bricks, or six shillings per diem, be the same for any part of the wall that is to be built by the owners of the front lotts, as also for that part of the said wall and fortifications that is to be built at the sole charges and expences of the publick; and shall also have power to press carpenters or any other handicrafts, where their worke is necessary, relating to the said front wall and fortifications, to worke at the rate of five shillings per diem; and shall also have power to press any negros from any persons liveing within the limits of Charlestowne, whether his said negroes be in towne or country, at the rate of two royalls and a halfe per diem, to work and tend the workmen on the said wall and fortifications, their masters finding them victuals; and shall also have power to press lime, and fetch the same from the plantation of Mr. John Berksdale, at the rate of three pence per bushell; but in case the said John Berksdale shall bring the said lime to towne, then it shall be lawful for the said commissioner to take the said lime so brought to towne, at the rate of five pence per bushell.

VII. *And be it also enacted* by the authority aforesaid, That the commissioner aforesaid is hereby impowered to press bricks from any person within this part of the Province, for building the said wall and fortifications, and them so prest for the publick to be paid by an order under his hand to the public receiver, at twenty shillings per thousand, if brought to towne, and fifteen shillings per thousand if at the charge of the publick they are brought from any part, soe prest as aforesaid.

VIII. *And be it further enacted* by the authority aforesaid, That the severall forts, halfe moons, platformes, batterys and flankers, built or to be built on the said front wall, shall have gabbins fixed upon them, and shall also be well piled, in order to their preservation against the sea, according to such method and forme as the commissioner above named, with the advice aforesaid, shall direct.

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IX. *And be it further enacted* by the authority aforesaid, That at the sole charge and expence of the publick, such additional walls, gates and other conveniences for the men, shall be added to the great battery and the halfe moone, at the watch-house, as shall be ordered by an ordinance of the Generall Assembly.

Fortifications.

X. *And be it further enacted* by the authority aforesaid, That part of the remaining parts of Charlestowne aforesaid, be fortified, that is to say, from the angle of the great fort to the end of the Church-street, and from the angle of the said street to the swamp neare Mr. Archibald Stobo's meeting house, and from the said meeting house eastward to the said battery, that is appointed to be built at the northermost angle of Col. Robert Daniel's northermost lot, fronting Cooper river; which said fortifications shall be by intrenchments, flankers and parapetts, sally ports, a gate, draw-bridge and blind necessary for the same, and shall be made at the sole charge and expence of the publick, and according to such method as the said William Rhett, who is also hereby appointed the sole commissioner for manageing these additional fortifications, shall, with the advice and consent of the Right Honorable the Governor as aforesaid, direct.

XI. *And be it further enacted* by the authority aforesaid, That the said William Rhett, as sole commissioner for the said additional fortifications by intrenchments, flankers, parapetts and other necessities as aforesaid, in order to enable him to carry on the said worke, shall have power, and is hereby authorized and impowered, to press any negroes within the limits aforesaid, to worke, at the rate of two royalls and a halfe per diem, their masters finding them victualls, excepting the said negroes are tradesmen, and them, if wanted to be pressed, to worke at three royalls per diem, their masters also finding them victualls; and also shall have power to press white men for overseers, within the precincts aforesaid, at the rate of two shillings and six pence per diem, they finding themselves victualls; and shall also have power to press negros, horses and carts, at five shillings per diem, and tooles, as spades, howes, pick-axes, and all other tools and utensels fitting for the carrying on the said worke; and shall also have power to cut down any pine timber off and from any plantation or tract of land for the said worke.

XII. *And be it further enacted* by the authority aforesaid, That in case any part of the said intrenchments or flankers shall be made upon any lott, or part of a lott, belonging to any private person, that satisfaction shall be made to the owners thereof for so much ground as shall be used in the fortifications aforesaid, according to such rates as shall be adjudged reasonable by three indifferent men, to be nominated by the Right Honorable the Governor.

Ground cleared.

XIII. *And be it further enacted* by the authority aforesaid, That the commissioner above named shall have power to order and direct the cutting down any timber or trees near the said Charlestowne, as he, the said commissioner, with the advice aforesaid, shall thinke prejudiciall to the said fortifications.

Powder house.

XIV. *Whereas*, the land on which the powder house was ordered to be built, lieth without the intrenchment to be drawne through part of Charlestowne; and for as much as it is necessary, for the better defence of the said towne, that the powder house be built within the said line of intrenchment, *Be it therefore enacted* by the authority aforesaid, That a brick powder house be built, thirty foot long and eighteen foot wide, within the said line, in such place and in such manner as the commissioner by this Act appointed, with the advice of the Governor, shall think

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fitt; and such lott, or part of a lott, on which the said house shall be buil't, shall be valued by three indifferent freeholders of this Province, by the Governor appointed; and such lott, or part of a lott, by them valued and returned to the publick receiver, by certificate under their hands, shall be by him paid to the owner thereof; which said lott, or part of a lott, so valued, returned and paid for as aforesaid, shall be and remaine, with the house thereon to be built, for the sole use and benefitt of the publick.

XV. *And be it further enacted* by the authority aforesaid, That in case any white man that is pressed to work, according to the power given the commissioner in this Act, shall refuse to worke as directed by the said commissioner, that if a tradesman, he shall forfeit, for every day's neglect, the sume of twenty shillings, current monyes, and if white man and no tradesman, the sume of ten shillings, current monyes, for every day's neglect; and if a negro, the master to forfeit five shillings, like current monyes, for every day's neglect; all which penalties shall be levied by distress and sale of the offender's goods, by warrant from the said commissioner, directed to any of the constables of this Province, who are hereby required to execute the same, upon penalty of forty shillings for every neglect, to be recovered by warrant from any justice of the peace, as in the Act of small and mean causes is directed; and in case sufficient distress cannot be found, it shall be lawfull for the said commissioner, and he is hereby impowered and required, by warrant under his hand and seal, directed to the provost marshal of this Province, to commit the said person offending to prison, for any time not exceeding a week, for one day neglecting to worke.

Penalty for refusing to work when pressed.

XVI. *And be it further enacted* by the authority aforesaid, That in case the said commissioner, or any other person, by his order, shall leave a note at the dwelling house of any person, requireing him to come and worke upon the said front wall and fortifications, or to send his negro to worke, according to the powers given by this Act, such notice shall be deemed a pressing within this Act, so as to subject the person neglecting his duty, to the penalties before appointed by this Act.

Notice.

XVII. *And be it further enacted* by the authority aforesaid, That all the forfeitures accruing by this Act shall be paid to the said commissioner, to and for the use and towards the charges of the said front wall and the other fortifications appointed by this Act.

Forfeitures.

XVIII. *And be it further enacted* by the authority aforesaid, That in case any of the workmen, or other the labourers, are idle, and do not performe their worke diligently, and according as they shall be directed by the commissioner, it shall be lawfull for the said commissioner to marke or prick down such their idle time and their neglects, and deduct the same out of their wages; and in case of their refusal to obey him in the direction he gives them relating to their worke, it shall be lawfull for him to commit him or them to prison, if white men, and if negroes, to order them such moderate correction as he shall think fitt.

Neglect of duty.

XIX. *And be it further enacted* by the authority aforesaid, That in order to the carrying on and finishing of the said front wall and other the fortifications prescribed by this Act, it shall be lawfull for the said William Rhett, the commissioner aforesaid, from time to time, to draw out of the publick treasury such sum or sums of money as he shall have occasion for, and judge necessary for carrying on and finishing the said severall publick works mentioned in this Act, by order under his hand, directed to the publick receiver for the time being, who is hereby required to pay

Appropriation.

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the same ; and the commissioner aforesaid is hereby required and comand-
ed, a fair and just account to keep, of all disbursements on the said forti-
fications by him ordered to be paid by the publick, and render the same
to the Commons, when and so often as he shall be thereunto required.

Compensation
to commission-
er.

XX. *Whereas*, the said William Rhett, who is hereby appointed the
sole commissioner for the executing all the powers given the commission-
ers in the said recited Act, entituled "An Act to prevent the seas further
encroachment upon the wharfe at Charlestowne," as also the sole commis-
sioner for the ordering, directing and overlooking all the publick works
and fortifications ordered by this Act ; and therefore, in order to the due
execution of the trust hereby reposed in him, must necessarily spend his
whole time, and neglect his other private business, which it would be
unreasonable to require of him, without some sufficient reward from the
publick ; *Be it therefore enacted* by the authority aforesaid, That the said
William Rhett shall be allowed, out of the publick treasury, the sume of
fifty pounds, to be paid him upon the finishing of the publick works ap-
pointed by this Act, and the receiver generall for the time being is hereby
required to pay the same ; and if the said William Rhett shall neglect to
carry on the said fortifications, as by this Act or any other Act he is impow-
ered to performe, shall, for such his neglect, suffer such abatement of his
said recompence of the said fifty pounds, as shall by the Commons be
thought most just.

Watch.

XXI. *Whereas*, it is necessary, for the better defence of the South
part of this Collony, that a good and strong watch be kept in the most
convenient place for that purpose ; *Be it therefore enacted* by the authority
aforesaid, That Capt. Thomas Nairn, Mr. Robert Seabrook, Mr. John
Whitmarsh, Mr. James Cockram and Mr. William Maggot, or any three
of them, of which Capt. Nairn shall be one, have power, and they are
hereby impowered, with the advice of the Generall, to raise and enlist
one-and-twenty men, to keep watch to the southward, and them when
raised, to place in such place or places to the southward, by the advice of
the Generall, and stockade the same, as shall be most convenient for the
discovery and repelling the enemy ; and shall at any time, with the advice
of the Generall, if they think fitt, lessen the number of the said watch-
men, and the same may again increase, to any number not exceeding one-
and-twenty ; which men so raised, shall for one year (and from thence to
the next session of the Generall Assembly,) be paid by the publick, such
sum or sums of money, not exceeding the like sum appointed to be paid
the watch in Charlestowne, by an order of the commissioners aforesaid,
to the publick receiver, who is hereby impowered and comanded to pay
the same.

Orders.

XXII. *And be it also enacted* by the authority aforesaid, That the one-
and-twenty men to be raised as aforesaid, (of which the Generall is request-
ed to commission a Captain and Lieutenant to comand the said watch,)
shall follow such instructions and directions as shall from time to time be
given them by the Generall, or such as shall be by him appointed to give
the same, for the due performance of the said watch ; and if the comand-
ers, or any of the watchmen aforesaid, shall neglect or refuse to follow
such instructions as shall be given them by the Generall, or such person by
him appointed as aforesaid, shall, for every such default, suffer such pun-
ishment, fines and forfeitures, as in the like case is to be inflicted on the
watch of Charlestowne, by the Act for the keeping and maintaineing a
watch and good orders in Charlestowne ; which said fines and forfeitures

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shall be recovered in such manner and forme, and for such uses, as the like forfeiture in the said Act is ordained and appointed.

XXIII. *Whereas*, it is necessary, for the safety of this Collony, in case of actuall invasions, to have the assistance of our trusty slaves to assist us against our enemies, and it being reasonable that the said slaves should be rewarded for the good service they may do us, *Be it therefore enacted* by the authority aforesaid, That if any slave shall, in actuall invasion, kill or take one or more of our enemies, and the same shall prove by any white person to be done by him, shall, for his reward, at the charge of the publick, have and enjoy his freedom for such his takeing or killing as aforesaid; and the master or owner of such slave shall be paid and satisfied by the publick, att such rates and prices as three freeholders of the neighborhood, who well know the said slave, being nominated and appointed by the Right Honorable the Governor, shall award, on their oaths; and if any of the said slaves happen to be killed in actuall service of this Province by the enemy, then the master or owner shall be paid and satisfied for him in such manner and forme as is before appointed to owners whose negroes are sett free.

Reward to slaves.

XXIV. *And be it further enacted* by the authority aforesaid, That if any slave aforesaid is wounded in the service aforesaid, so that he is disabled for service to his master or owner, then such slave so disabled shall be sett free at the charge of the publick, in such manner and forme as afore is provided, and shall also be maintained at the charge of the said publick.

XXV. *And be it further enacted* by the authority aforesaid, That it shall and may be lawfull for any master or owner of any slave, in actuall invasion, to arme and equip any slave or slaves, with such armes and ammunition as any other person by the Act of militia are appointed to appear at muster or alarums.

*Read three times and ratified in open Assembly,
this three-and-twentieth day of December, 1703.*

N. JOHNSON,
THO. BROUGHTON,
NICHOLAS TROTT,
JOS. MORTON,
ROBT. GIBBES,
HENRY NOBLE.

AN ACT FOR THE BETTER REGULATING THE WATCH IN CHARLES TOWNE. No. 221.

IN order to make the watch in Charlestown more usefull and securer than it now is, in this dangerous time of warr,

Preamble.

I. *Be it enacted* by his Excellency John Granville, Esq., Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the Generall Assembly, now mett at Charlestowne, for the South-west part of this Province, That three days after the ratification of this Act, the Hon. Nich. Trott, Esq., chief justice, and one of the Lords Proprietors

Watch formed.

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Deputies, Henry Noble, Esq., one of the Lords Proprietors Deputies, Col. James Risbey, Col. John Logan, Leut. Col. Wm. Rhett, Major Alexander Parris, Major Wm. Smith, Capt. Will. Weekeley, Mr. Edwd. Loughton, Mr. Simon Valentine, Mr. Benjamin Lambell, Mr. Paul Lamouche, Mr. John Buckley, Mr. James Serurier Smith, Mr. James Ingerson, Mr. Lewis Pasquereau, Mr. Isaack Mazicq, Mr. Tho. Pinckney, Mr. Wm. Gibbon, and Mr. Lewis Lansac, who did voluntarily offer themselves to watch in their turns, to go the rounds, and to see the watch performe their duties, or the major part of them, shall meet at the house of Capt. John Collins, in Charlestowne, and there shall receive from the Captains of the Militia, a list of all the male persons who are able to bear arms, under their respective comand, and then and there shall divide the whole number into twenty equal parts, excepting only the men that belong to the military watch; and the division being so made, shall, in such manner and forme as they shall agree amongst themselves, allot so many as shall make the whole number, to watch in Charlestowne in their turns, once every twentieth night, att the same time and hour that the military watch is enjoyned to doe.

Turns of
watching.

II. And in order to do the same regularly, and that none may pretend ignorance, *Be it enacted* by the authority aforesaid, That the twenty persons here above named shall take their turn for watching, with such number of men as shall be allotted unto them, the names whereof shall be given to them at their meeting abovesaid; and they shall take their turns to watch as they stand here in this Act, and so when the whole twenty have watched, to begin again; and that they may know their night's watch, the Capt. or Leut. of the military watch is hereby required to send them notice thereof, the day before their said night's watch, and also to give notice to the men that are to watch under him, of whome they shall receive a list, that it is their night's watch, that none may pretend ignorance to excuse himselfe.

Command.

III. *And be it further enacted* by the authority aforesaid, That every one of the twenty men here named, shall, every one in his turne, and on his watch night, have the whole comand of the watch for that night, and every person or persons shall obey him as they are obliged to do their Captains and officers in allarms; and in order to enable him to make his rounds in his night's watch, the Captain of the watch, or any other person who shall bee appointed by the Right Honorable the Governor or Commander-in-chief to give the word, shall bee obliged, and he is hereby commanded and enjoyned, to give the said person the word.

Neglect of
duty.

IV. *And be it further enacted* by the authority aforesaid, That if any person or persons who is hereby obliged to watch, (as well the comandars as others,) shall refuse or neglect (not beinge disabled by sickness) to watch in his turne, or shall appear on the watch without his armes compleatly fixed, or shall be drunk on the watch, or go from the watch to any house and there get drunk, he shall forfeit for every such offence, every commander forty shillings, and every volunteer twenty shillings, to be paid to the commissioners of the poore, for the use of the poore of this Province; and if any one of the twenty men here appointed to comand the watch, shall depart this life, towne or Province, or be disabled by long and tedious sickness, then the Right Honorable the Governor shall appoint another in his roome.

Penalty.

Orders.

V. *And be it further enacted* by the authority aforesaid, That the said twenty persons shall, from time to time, and at all times, follow such

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orders as shall be given unto them in charge by the Right Honorable the Governor or Commander-in-chiefe, concerning the ordering and disposing of the watch, placing of centrys, or any other thing relating to their duty and the well performing of the watch.

VI. And *whereas*, it is necessary in cases of allarms, that each man have at least forty swan shott, *Be it enacted* by the authority aforesaid, That every person who is obliged to appear in arms on musters, watch or allarms, do provide him or themselves, besides what amunition they are obliged to have by any other Act, with at least the said quantity of shott, and have always the same by him when under arms on any of the said accounts, under the fine and forfeiture of five shillings for every default, to be recovered for the use above declared, in the same forme and manner as is here mentioned and appointed. Shot.

VII. And *be it further enacted* by the authority aforesaid, That when the front wall and the intrenchments designed to be cast up in Charlestowne are finished, or when the Right Honorable the Governor or Commander-in-chiefe shall think it necessary, the persons here above named, with such as are under their comand, shall double the watch, (that is to say,) that two of the comanders, with the men under their comand, shall watch that night, and so every tenth night; and to prevent disputes between them about comand of the watch that night, they shall have it by turns, in order as they stand in this Act, any thing in this Act to the contrary notwithstanding; and all fines and forfeitures which shall accrue or become due by this Act, shall be recovered in such manner and forme, and for the uses aforesaid, as in the like case is appointed in cases of allarms in an Act intituled "An Act for the better regulateing of the militia." Watch, when to be doubled.

VIII. And the better to traine the inhabitants of Charlestowne to the use and exercise of their armes, *Be it enacted* by the authority aforesaid, That each Captain in the said towne shall, once a month, by himselfe or his inferior officers, muster and exercise his company, in such forme and manner, and under such pains and penalties, as they were used to do before, every two months; any law, statute or custome, to the contrary in any wise notwithstanding: And if any person shall refuse or neglect to appeare at the said muster compleatly armed, as they are required by the Act for the better settleing and regulateing the militia, shall and are hereby made liable to all fines, forfeitures and punishments imposed in such cases by the said Act.

*Read three times and ratified in open Assembly,
the three-and-twentieth day of December, 1703.*

N. JOHNSON,
THO. BROUGHTON,
NICHOLAS TROTT,
JOS. MORTON,
ROBT. GIBBES,
HENRY NOBLE.

A. D. 1701.

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No. 230. AN ACT TO PREVENT THE BREAKING DOWN AND DEFACING THE FORTIFICATIONS IN CHARLES TOWN.

Preamble. WHEREAS, at the great charge, expence and labour of the inhabitants of this Province, Charlestown hath been fortified with intrenchments and other works, to make it defensible in this time of war and danger of an invasion from our enemies, yet some inconsiderate or evil disposed persons, not regarding or minding the evil consequences of defacing and breaking down the said fortifications, do presume to climb and get over the said intrenchments and other works, and so break them down, and lay open the said town; to prevent such mischiefs for the future,

Penalty for injuring fortifications. I. *Be it enacted* by his Excellency John Lord Granville, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown, for the South-west part of this Province, That from and after the ratification of this Act, if any white person or persons, above the age of sixteen, shall presume or endeavour to climb or pass over any part of the said fortifications, inward or outward of Charlestown, or go down into the ditch or trench, he, she or they, so offending, shall fine and forfeit the sum of twenty shillings, the one half payable to the informer, and the other half to the commissioners of the poor, towards the relief of the poor of this Province: And if the person or persons so offending doth not pay immediately the said fine, or give sufficient security to pay the same in ten day's time after the fact is proved, he shall receive, at the publick stocks, fifteen lashes on the bare back, and fifteen lashes more at the inward bridge; and if any slave commits any of the said offences, he or she shall be whipped round the town, except his master or mistress will redeem the said punishment by paying half the fine imposed on white persons; the said monies to be applied and disposed of to the same persons and use above mentioned.

Who to judge. II. And the better to put this Act in execution, *Be it enacted* by the authority aforesaid, That the Commander-in-chief, or any one of the field officers, for the time being, any one of them is hereby appointed and made judges thereof, and that on proofs made before them, or any one of them, within ten days after the fact committed, by one or more credible witnesses, of any offence therein committed, they shall, and are hereby required to, award the said fine or punishment by warrant under their hands and seals, or any one of them, directed to any of the constables of Charlestown, who are hereby required to execute, or cause to be executed, the same, upon the penalty of forty shillings for every neglect, to be levied upon them by distress and sale of their goods and chattels, by warrant from the Commander-in-chief, or any of the field officers.

Children. III. And *whereas*, children under the age of sixteen have and do daily deface the said fortifications, by passing and going over them; *Be it enacted* by the authority aforesaid, That if any child or children as aforesaid shall hereafter commit any of the said offences, on proof thereof made against them, or any of them, if on notice given to the parents or guardians, or masters or mistresses, of the said children, by any of the field officers, they do not correct their said child or children, or pay the fine hereby imposed on white persons, the said field officer is hereby impowered and required to cause as aforesaid such correction to be given to the said child or children, as he shall think fit, not exceeding twenty lashes.

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Bridge.

IV. *And be it further enacted* by the authority aforesaid, That for the conveniency of people that goeth and cometh to and from Ashley river, a bridge shall, with all convenient speed, be built and erected, from the South end of the bay to the land of Mr. John Vanderhorst, at the publick charge, in such place as by Col. William Rhett shall be appointed, who is hereby impowered, by an order under his hand on the publick receiver, to pay the same.

V. *And that no person may plead or pretend ignorance, Be it further enacted* by the authority aforesaid, That this Act shall be read and published by beat of drums in the usual places in Charlestown, and read at the head of the town companies the next muster day, after the ratification thereof.

VI. *And be it further enacted* by the authority aforesaid, That any person or persons that for their convenience are willing to build a bridge within the fortifications at their own charge and expences, from the land which belongeth to the public on the Southermost part of the front line next to Mr. Thomas Smith's saw-pit, to the neck of land on the other side of the marsh which belongs to the publick, shall, and they are hereby allowed liberty to build the same.

VII. *And be it further enacted* by the authority aforesaid, That ten days after the ratification of this Act, no person whatsoever shall keep any mare, colt, cow, calf or ox, or any other cattle, running within the intrenchments in Charlestown, (except horses :) And if any person or persons aforesaid shall keep any of the cattle aforesaid, within the limits above mentioned, except inclosed in their own lots, after the time limited by this Act, such person or persons so offending shall forfeit the sum of five shillings for every day he, she or they shall keep any of the said cattle within the intrenchment aforesaid. And in order to effect the same, the Commander-in-chief for the time being, or Col. James Risbee, is hereby impowered to appoint a centinel at the gate and bridge, to be paid out of the public treasury, not exceeding ten pounds per annum, by an order under the hand of the said Commander-in-chief to the public receiver, who is hereby required to pay the same ; and the said centinel shall keep out of the aforesaid intrenchments all the cattle above mentioned ; and if any of the said cattle doth get into the said intrenchments through the gates, the said centinel shall immediately, on notice thereof, drive out of the said intrenchments the said cattle, and if he neglects to do the same, he shall forfeit five shillings for each neglect or neglects. And all fines and forfeitures as aforesaid, for which no provision is made for recovery thereof, shall be recovered in such manner and form, and for such uses, as the fines and forfeitures in this Act before are ordained and appointed.

No cattle to be kept within the intrenchments.

Read three times, and ratified in open Assembly, November 4, 1704.

N. JOHNSON, (L. S.)
 THO. BROUGHTON, (L. S.)
 JAMES MOORE, (L. S.)
 NICHOLAS TROTT, (L. S.)
 ROBERT GIBBES, (L. S.)
 HENRY NOBLE, (L. S.)

A. D. 1704.

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No. 231. AN ACT AGAINST KILLING OF BEASTS WITHIN THE INTRENCHMENTS OF CHARLES TOWN.

Preamble.

FORASMUCH, as by dung and filth of the garbage and intrails of beasts, and the scalding of swine, killed in slaughter houses and yards within the intrenchments, the air is greatly corrupted and infected, and many maladies and other intolerable diseases do daily happen, as well to the inhabitants as strangers and travellers, in and out of Charlestown, for prevention thereof,

Butchery in town prohibited.

I. *Be it enacted*, by his Excellency, John Lord Granville, Palatine, and the rest of the true and absolute Lords and proprietors of this Province of Carolina, by and with the advice and consent of the rest of the members of the Generall Assembly, now met at Charlestown, for the south-west part of this Province, *And it is hereby enacted* by the authority of the same, That twenty days after the ratification of this Act, no butcher, or any other person or persons whatsoever, shall kill any cattle, sheep or hogs, nor use or erect any slaughter house, cattle penn, sheep penn, or hogg sties, in either streets or yards within the intrenchments of Charlestown, on the penalty of twenty shillings for every offence committed, to be recovered by a warrant, under the hand and seal of one justice of the peace, to be levied by a constable, one moiety thereof to be paid to the commissioners of the poor, for the use of the poor, the other moiety to him or them that will sue for the same; and for want of effects to levy the same upon, shall suffer one month's imprisonment, without baile or maine prize.

II. *Provided always, and be it enacted* by the authority aforesaid, That this Act, or any thing therein contained, extend not to charge any person or persons for any the offences above mentioned, unless he or they be sued for the same within two months next after such offence done and committed.

*Read three times and ratified in open Assembly,
the 4th day of November, 1704.*

ROBT. JOHNSON,
THOS. BROUGHTON,
JAS. MOORE,
NICHOLAS TROTT,
ROBT. GIBBES,
HENRY NOBLE.

No. 232. AN ACT FOR THE BETTER SECURING OF CHARLESTOWN, BY STOPPING THE NORTH BARR OF ASHLEY RIVER, IN CASE OF INVASION; AND TO DISBAND THE MILITARY WATCH IN CHARLESTOWN.

Preamble.

WHEREAS, there is very good grounds and reason to believe, that our common enemies, the French and Spaniards, will make some attempts on this Province, and particularly upon Charlestown; in order to oppose and defeat their attempts the better,

I. *Be it enacted* by his Excellency, John Lord Granville, Palatine, and

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the rest of the true and absolute Lords and proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown, for the south-west part of this Province, *And it is enacted* by the authority of the same, That from and after the ratification of this Act, it shall and may be lawfull to and for the Right Honourable the Governour, or the Commander-in-chief in Charlestown, for the time being, in case of an actual invasion, from and by any of the enemies of the Crown of England, during this present warr with France and Spain, or either of them, or on sight of three or more vessels, suspected and judged by the said Governour or Commander-in-chief as aforesaid to be enemies, to press any vessell or vessells which shall then be in this Province, and the same to man and send to the barr or barrs of Ashley river, to fight, oppose, repulse and hinder the enemies from passing over the said barrs or any of them.

Vessels may be pressed.

II. *And be it further enacted* by the authority aforesaid, That if the Right Honourable the Governor, or Commander-in chief as aforesaid, shall think and judge that the north barr cannot be sufficiently defended and secured by the said vessell or vessells so manned and fitted out, it shall and may be lawfull to and for the said Governour, or Commander-in-chief as aforesaid, to sink, or cause to be sunk, one or more vessels upon the said barr, to obstruct, hinder and prevent the enemy's vessels passing over the same; and if it happens that by the sinking of such vessell or vessells on the said barr, the enemy's ships are hindered from getting over the said barr, or Charlestown be not taken, or the vessels in the road are not destroyed by the enemies, then in such case, the owners or proprietors of such vessell or vessells shall be paid and satisfied by the publick for their said vessell or vessells, according to the appraisement made by three sufficient men, on their oaths, the said appraisers to be appointed and named by the Right Honourable the Governour, by warrant under his hand and seal.

North bar to be obstructed.

III. And in order to have all things and materials ready for the doing thereof, *Be it enacted* by the authority aforesaid, That a sufficient quantity of barrells, not exceeding one hundred and fifty, bee forthwith provided at the publick charge, and filled with sand, and placed in some commodious place on the barr in Charlestown, in order to be put on board of such vessell or vessells as shall be pressed by vertue of this Act; and the Governour, or Commander-in-chief as aforesaid, are hereby required and empowered to cause the said barrells to be bought and provided, and to draw on the publick receiver for payment thereof, and the said receiver is hereby ordered to accept and pay the same.

Barrels to be prepared.

IV. And in order to man the said vessell or vessells so pressed by vertue of this Act, *Be it enacted* by the authority aforesaid, That the Right Honourable the Governour, or Commander-in-chief as aforesaid, shall have power, and they are hereby impowered, if they shall see cause to press any vessell according to the directions of this Act, to press also any men, and command them to go and repair on board the said vessell or vessells so pressed, and to work and do all such duty and service as they or either of them shall be ordered and commanded to do by the commander appointed by the Right Honourable the Governour, or Commander-in-chief in Charlestown, to command the said vessell or vessells; and if any person or persons so pressed shall refuse to go on board, or obey command on board or on shoar, such person so offending shall and he is hereby made liable to such corporall punishment as the Right Honourable the Governour,

Men may be pressed.

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or Commander-in-chief as aforesaid, by a court martial, shall think fit to inflict on such offender or offenders.

A guard to be
enlisted.

V. *Whereas*, by "An Act for keeping and maintaining a watch and good orders in Charlestown," ratified in open Assembly, the eighth day of May, one thousand seven hundred and three, that the watch of Charlestown shall consist of a Captain and Lieutenant and twenty-four men, and forasmuch as there is further provision made for a maintenance of the said watch, by "An Act for the better regulating the watch in Charlestown," ratified in open Assembly, the three and twentieth day of December, one thousand seven hundred and three; *Be it enacted* by the authority aforesaid, That the Governour is hereby impowered and requested, forthwith to disband the said Captain, Lieutenant and souldiers, any thing in the said Act to the contrary notwithstanding, and in the roome of them so disbanded, to order and enlist four men, to be and remain on Sullivan's Island, with a doory as a look-out; which said men shall follow such order and directions as shall be given them from time to time by the Generall or commander-in-chief in Charlestown; which said four men so enlisted as aforesaid with the doory, shall be paid by the publick, by order under the hand of the Governour to the Receiver, who is hereby empowered to pay the same.

VI. *Be it further enacted* by the authority aforesaid, That the Governour is hereby impowered to disband and discharge the said four men hereby impowered to be enlisted, when he shall think fit.

Watch further
regulated.

VII. *And whereas*, for sundry good reasons, the Right Honourable the Governour hath thought fit to send the Captain, Lieutenant and men belonging to the military watch in Charlestown, appointed to watch in the said town, by an Act entitled "An Act for the keeping and maintaining a watch and good orders in Charlestown," ratified in open Assembly, the eighth day of May, one thousand seven hundred and three, to watch on Sullivan's Island; *and whereas*, some doubts may arise concerning the payment of the said Captain, Lieutenant and men, because they were employed and used otherwise than by the said Act is directed and appointed; to prevent all doubts and disputes that may or might arise about the same, *Be it enacted* by the authority aforesaid, That the Assessors named and appointed in the said Act, shall forthwith after the ratification of this Act, assess one quarterly payment on all and every the persons assessable and liable to be assessed by the said Act, according to the directions of the said Act, and an ordinance of the Generall Assembly, bearing date the seventeenth day of September, one thousand seven hundred and three; and the said assessment so by them made, shall with all speed return to the commissioners in the said Act appointed, who are hereby ordered and directed to collect the same according to the directions and powers of the said Act, as also, all the moneys unpaid on the former assessment; and out of the moneys so collected, and such further sums as they are allowed to draw on the publick Receiver, according to the ordinance above named, to pay and clear off the Captain, Lieutenant and men, although the Captain, Lieutenant and men were otherwise employed and used than by the said Act is directed; or any thing or things, Act or Acts, to the contrary in any wise notwithstanding.

VIII. *Whereas*, by virtue of "An Act to prevent the Sea's further encroachment upon the wharfe of Charlestown," ratified in open Assembly, the sixteenth day of November, one thousand seven hundred, the front

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line of the wharfe of Charlestown, from the great battery at the end of Cooper street, to the northwardmost part of Colonel Robert Daniell's northermost lott, is laid out in a continued direct line; *and forasmuch*, as several persons, according to the direction of the said Act, have built their part of the said front wall in the said line, which said wall being carried out too far, hath, by violence of the wind and sea, been utterly ruined; therefore, for the prevention thereof for the future, *Be it also enacted* by the authority aforesaid, That at the northermost or southermost end of Mr. Richard Codner's lott, on the front, at the choice of the said Codner, the front wall shall be brought within twenty-five foot, and from thence shall be carried in a direct line to the southermost end of the next battery on the front line, or as shall be directed by Lieutenant Colonel William Rhett, appointed commissioner for executing all the powers granted to him for carrying on the said wall.

IX. *And be it further enacted*, That the twenty-five foot as aforesaid, to be brought in, with the filling up, shall be built and filled up at the charge of the publick.

*Read three times, and ratified in open Assembly,
the 4th day of November, 1704.*

N. JOHNSON,
THOS. BROUGHTON,
JAS. MOORE,
NICHOLAS TROTT,
ROBT. GIBBES,
HENRY NOBLE.

AN ACT TO PREVENT AND SUPPRESS FIRE IN CHARLES TOWN.

No. 234.

WHEREAS, the town of Charlestown hath already suffered great Preamble losses by fires, and daily is exposed to the same unhappy accident; for the prevention and better stopping of the same,

I. *Be it enacted* by his Excellency, John Lord Granville, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the Generall Assembly, now met at Charlestown for the south-west part of this Province, That as soon as conveniently can be, after the ratification of this Act, leather bucketts, fire-hooks and ladders, shall be provided by the commissioners appointed in an Act entitled "An Act for the keeping a watch and good orders in Charlestown," ratified in open Assembly, the eighth day of May, one thousand seven hundred and three, according to such directions and orders, and according to such form and manner, as in the said Act are appointed and enacted. Buckets, fire-hooks, ladders, &c.

II. *And be it also enacted* by the authority aforesaid, That if any fire shall happen to break out in any part of Charlestown, that the commissioners hereafter named, or any three of them, shall or may, and they are hereby impowered to, give all such directions for the pulling down or blowing up any such house or houses, that shall be by them adjudged meet to be pulled down or blown up for the stopping and preventing the further

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spreading of the fire; and if it shall happen that the pulling down or blowing up any such house or houses by the directions aforesaid, shall be the occasion of stopping the said fire, or the fire stops before it comes to the same, and not otherwise, then all and every owner of such house or houses shall receive satisfaction, and be paid for the same, by the rest of the inhabitants of Charlestown, whose houses shall not be burnt; and the said commissioners are hereby empowered to make such rate or rates on the real or personal estates in Charlestown, for the raising or levying such sum or sums of money as shall be by the said commissioners thought most just and reasonable; *Provided always*, that if the house where the fire shall first begin and break out, shall be adjudged fit and necessary to be pulled down, to hinder the farther spreading and increasing the same, that then the owners of such house shall receive no manner of satisfaction for the same; any thing in this Act, or any other Act, to the contrary notwithstanding.

Names of commissioners.

III. *And be it further enacted* by the authority aforesaid, That James Risbee, William Rhett, John Bukely, Esqrs. Maj. William Smith and Capt. Edward Loughton, or any three of them, are hereby named and appointed commissioners to put the said powers in execution.

Penalty for chimnies taking fire.

IV. *And whereas*, there is severall complaints, that most of the inhabitants of Charlestown are very negligent in not sweeping and keeping their chimnies clean, which oftentimes occasions the firing the said chimnies, and so endangers the firing the house or houses adjoining the same; *Be it therefore enacted* by the authority aforesaid, That if any chimney or chimnies in Charlestown, after the ratification of this Act, happen to catch or take fire, the person or persons living in the said house or tenement, where the said chimney or chimnies so takes and catches fire, shall forfeit forty shillings, to be levied by a warrant under the hand and seal of any justice of the peace, one half to the informer, and the other half to be delivered to the commissioners of the poor for the use of the poor.

Penalty for boiling pitch, &c. in Charleston.

V. *And be it further enacted* by the authority aforesaid, That if any person or persons shall boil any pitch, tarr, rosin or turpentine, within the bounds of Charlestown, as it is laid out in the grand plot, or if any master or commander of vessels, sailors or others, shall boil any pitch, tarr, rosin, or turpentine above the bank and within the front wall in Charlestown, he or they so offending shall forfeit, for every such offence, forty shillings, to be recovered before any two of the commissioners aforesaid, or any two justices of the peace, in such form and manner as small and mean causes are to be decided, adjudged and recovered, according to the directions of an Act entitled "An Act for the trial of small and mean causes," the one moiety of the said forfeiture to be paid to the informer, and the other moiety to the commissioners of the poor, for the use of the poor of this Province.

Penalty for keeping Stills.

VI. *And whereas*, several persons keep stills and still-houses in Charlestown, to the great endangering of their own and their neighbours houses, *Be it enacted* by the authority aforesaid, that if any person or persons within the intrenchments of Charlestown, shall keep in his, her or their house or houses, or out-houses, any still or stills exceeding ten gallons, without license first obtained from the commissioners, or the major part of them, under their hands, if any person informs any one of the commissioners above named, or any justice of the peace, of the place or places, house or houses, where such still is set up and used without the said license first obtained, the said commissioners or justice of the peace shall go and

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view, and he is hereby required to go and view, the said place and still, and if he find the same to be, according to information, contrary to this Act, he shall cause the said still to be taken up and the furnace to be pulled down, at the charge of the owner thereof, and shall, besides, award a fine of twenty shillings, to be paid to the informer, by the owner of the said still and furnace, contrary to the true intent and meaning of this Act; and if any person or persons shall set up the same again, or any other still above the limitations of this Act mentioned, the said still and furnace shall be pulled down again, and over and above he shall be, and he is hereby made, liable to the same fine and forfeiture laid and imposed on such persons as boil pitch, tarr, rosin or turpentine in Charlestown, to be recovered in such form and manner as the said fines and forfeitures are to be recovered for such offences, and to the same use.

Read three times, and ratified in open Assembly, November 4, 1704.

N. JOHNSON,
THOS. BROUGHTON,
JAMES MOORE,
NICHOLAS TROTT,
ROBERT GIBBES,
HENRY NOBLE.

AN ACT FOR REPAIRING AND EXPEDITIOUS FINISHING OF THE FORTIFICATIONS IN CHARLESTOWN. No. 264.

WHEREAS, it is highly necessary in this time of warr, for the better securing of Charlestown, and the preservation of this part of this Province, from the attempts of the enemy, that it be well fortified; and *whereas*, the fortifications are not yet completed, as well as several parts thereof that has lately suffered damage are now much out of repair, which may prove to the great injury of the whole, if speedy care be not taken and provided.

Preamble.

I. *Be it therefore enacted* by his Excellency, John Lord Granville, Palatine, and the rest of the true and absolute Lords and Proprietors of the Province of Carolina, by and with the advice and consent of the rest of the members of the Generall Assembly, now mett at Charlestown, for the south-west part of this Province, That the several breaches which has lately been made in any part of the fortifications, either on the front or back parts of Charlestown, be forthwith repaired, by the direction of the commissioner hereafter named, by and with the advice and consent of the Right Honourable Sir Nathaniel Johnson, Knight and Governour of this Province, or the Governour for the time being; and that the front wall and fortifications be finished with all expedition, according to such method and manner as the said commissioner, with the advice and consent of the Governour aforesaid, shall direct.

Fortifications to be finished.

II. *Be it further enacted* by the authority aforesaid, That Captain Thomas Walker, who is hereby nominated and appointed commissioner to manage the repairing and finishing the fortifications, shall have power to press brick-layers, carpenters, or any other handicrafts, where their work

Workmen may be pressed.

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is necessary for the repairing the breaches or finishing the front wall or fortifications, allowing the brick-layers, carpenters or any other handicrafts so pressed for the work aforesaid, six shillings per diem, they finding themselves victuals and tools; as also, power to press white men for overseers, at three shillings and nine pence per day, they finding themselves victuals; and that the said commissioner may be better enabled speedily to finish and complete the work by this Act appointed, he is hereby empowered to press any negro men from any persons inhabiting within the limits of Charlestown, whether his said negroes be in town or country, allowing and paying to the owner of such negroes, two royalls and half per diem, or three royalls if tradesmen, the owners finding them victuals.

Exception.

III. *But whereas*, some of the inhabitants of Charlestown may possibly have already imployed their negroes in the country, so that it would be to their great prejudice and loss if they should be obliged to take off their negroes and bring them to Charlestown; *it is therefore enacted* by the authority aforesaid, that if any such person or persons soe having imployed their negroes the space of three months before the ratification of this Act, should by the commissioner be summoned to send their or any of their negroes to the said publick work, such person or persons shall, upon their declaring on oath, before any of her Majestie's justices of the peace in this Province, that such their negroes were, three months before the ratification of this Act, imployed in working in the country, be exempted from any penalty for not obeying the said summons; any thing in this Act contained in any wise to the contrary notwithstanding.

Materials to be pressed.

IV. *And it is further enacted* by the authority aforesaid, That the commissioner already mentioned, in order to his being the better supplied with all necessaries for the carrying on the work aforesaid, is hereby empowered to press bricks, lime, flatts, periaugers, and all other things necessary for the carrying on the work aforesaid, paying the owners of such necessaries the accustomed prices, whether received at their respective landings or at Charlestown; and that none may be imposed on, it shall and may be lawfull for every person or persons that has their goods so pressed as aforesaid, to lay their grievances before the next meeting of the Generall Assembly, who shall determine the prices that they ought to have for such their goods soe pressed and taken as aforesaid.

Penalty for refusing to work.

V. *And be it also enacted* by the authority aforesaid, That if any white man, not being disabled by sickness, shall refuse to work as directed by the said commissioner, shall forfeit ten shillings for every day's neglect; and if a negro, the owner or overseer so refusing shall forfeit five shillings; all which penalties shall be levied by distress and sale of the offender's goods, by warrant of the said commissioner, directed to any of the constables of this Province, who are hereby required to execute the same, upon the penalty of forty shillings for every neglect, to be recovered by warrant from any justice of the peace, as in the Act of small and mean causes is directed; and in case sufficient distress cannot be found, it shall be lawfull for the said commissioner, who is hereby empowered and required, by warrant under his hand, directed to the provost marshall of this Province, to commit the said person offending to prison, for any time not exceeding two days, for every day's neglecting or refusing to work.

Summons.

VI. *And be it likewise enacted* by the authority aforesaid, That in case the said commissioner, or any other person by his order, shall leave a note at the dwelling house of any person, requiring him or any negroes to

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come and work upon the said front wall and fortifications, such notice shall be deemed a sufficient summons to subject the person neglecting his duty, to the penalties before appointed by this Act.

VII. *And be it further enacted* by the authority aforesaid, That all the forfeitures accruing by this Act shall be paid to the said commissioner, for the use and towards the charges of the said fortifications. Forfeitures.

VIII. *And be it further enacted* by the authority aforesaid, That in case any of the workmen or other the labourers are idle, and doe not perform their work diligently, and according as they shall be directed by the said commissioner, it shall be lawfull for the said commissioner to mark and prick down such their idle time and neglects, and deduct the same out of the wages, if a white man, and if negroes, to order them such moderate correction as he shall think fitt. Time to be kept.

IX. *And be it further enacted* by the authority aforesaid, That in order to the carrying on and finishing of the said fortifications, it shall be lawfull for the said Thomas Walker, commissioner, from time to time, to draw out of the publick treasury such sume or sumes of money as he shall have occasion for, and judge necessary for the carrying on and finishing the said work, by order under his hand, directed to the publick Receiver for the time being, who is hereby required to pay the same, so as the severall orders exceed not the sum of six hundred pounds; and the commissioner aforesaid is hereby required and commanded a far and just account to keep, of all disbursments on the said fortifications, by him ordered to be paid by the publick Receiver, and render the same to the Commous House of Assembly, when by them thereunto required. Appropriation.

X. *And be it further enacted*, That the said Thomas Walker shall be allowed out of the publick treasury the sum of thirty pounds, which said sum of thirty pounds is hereby understood in full satisfaction for the service of the said Thomas Walker, as sole commissioner for finishing the fortifications, to be paid him upon the finishing the publick work, and the publick Receiver is hereby required to pay the same.

XI. *And whereas*, it is highly necessary, for the satisfaction of all persons concerned in the publick treasury, that there be due care taken to prevent all mistakes that may happen in the accounts relating to the said publick work; *Be it therefore enacted*, That Mr. Patrick Martin is hereby nominated, authorized and appointed comptroller of the said accounts; and the better to qualify him for the due execution of that office, the overseers hired by the said commissioner shall every evening give them, the said commissioner and comptroller, each, an impartial account of of every negroe's work for that day, as also, to whom they doe belong; and every white man that shall be imployed by the commissioner aforesaid, on the publick work, or from whom any goods shall be pressed or bought for that end, are also hereby required to bring in and deliver their respective accounts to the said comptroller, duplicates of which, by them signed, shall be given into the said commissioner, within twenty-four hours after he has received such account. Comptroller of accounts appointed.

XII. *And it is further enacted* by the authority aforesaid, That an account of every sum or sums of money, or any goods whatsoever, that the said commissioner may, by vertue of this Act, distrain or receive from any defaulters, shall be given, by the constable distraining, or any other person receiving such forfeitures, to the said comptroller, who is hereby authorized and required to keep a just and true account, as well of this, as all others matters relating to the publick work, and to render them to

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the Commons House of Assembly, as often as by them he shall be thereunto required.

Compensation.

XIII. *And be it enacted* by the authority aforesaid, That the said Patrick Martin, as a reward for his executing this office, shall be allowed the sum of fifteen pounds, to be paid him upon the finishing the said publick work, and the publick Receiver for the time being is hereby required to pay the same; and if the said comptroller shall neglect or not faithfully execute the office he is hereby authorized to perform, after he has undertaken the same upon him, he shall be liable to such abatement in his wages as by ordinance of the Generall Assembly shall be thought fitt.

Vacancies filled.

XIV. *And it is further enacted* by the authority aforesaid, That in case the aforesaid commissioner or commissioners, or either of them, should die or depart this Province, or be rendered incapable of duely executing their respective offices, as by this Act is expressed and appointed, it shall and may be lawfull for the Right Honourable Sir Nathaniel Johnson, Knt and Governour, or the Governour for the time being, to appoint such other person or persons in his or their places, as he shall think fitt, who are hereby impowered to act as fully in this matter as the person or persons they shall succeed, until the next meeting of the Generall Assembly, and shall be subject to the like penalties.

Sums due to be collected.


XV. *And it is further enacted* by the authority aforesaid, That Capt. Thomas Walker, commissioner as aforesaid, have power, and he is hereby impowered, to recover and receive of and from all manner of person or persons whatsoever, such sum or sums of money that now are or hereafter shall be indebted unto the publick on account of building and finishing the brick wall before any front lott or lotts in Charlestown; and that the commissioner aforesaid, upon receipt of such sume or sumes of money as aforesaid, shall be accountable to the publick, and he is hereby made lyable and accountable for the same to the publick as aforesaid.

XVI. *And be it enacted* by the authority aforesaid, That the limitts and bounds of Charlestown, by vertue of this Act, be and extend no further than is laid out and sett down in the grand plott of the said town.

Acts repealed.

XVII. *And be it further enacted*, That an Act entitled "An additional Act to an Act entitled An Act to prevent the sea's further encroachments upon the wharfe of Charlestown, and for the repairing and building more Batteryes," &c, ratified the twenty-third day of September, one thousand seven hundred and three, is hereby repealed, revoked, disannulled and made void for ever, any thing in the said Act contained to the contrary notwithstanding.

XVIII. *And be it also enacted*, That an Act entitled "An Act for the expeditious finishing the front line in Charlestown," ratified the fourth day of May, one thousand seven hundred and four, all the paragraphs and clauses therein contained, empowering Lieutenant Colonel William Rhett, late sole commissioner of the said front line and fortifications about Charlestown, be, and are hereby, repealed, revoked and disannulled and made void, any thing in the said Act contained to the contrary notwithstanding; and that the said Capt. Thomas Walker be, and he is hereby nominated and appointed, commissioner in the place and stead of the said Lieutenant Colonel William Rhett, to doe and execute all such powers and things as he hath by vertue of this Act; *Provided nevertheless*, and it is the true intent and meaning of this Act, that nothing herein contained shall extend or be construed to extend to exclude Lieutenant Colonel

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William Rhett, late sole commissioner for the fortifications, from being liable to make good his accounts concerning the fortifications, to the House of Commons.

XIX. *And be it enacted* by the authority aforesaid, That this Act and every thing therein contained, doe continue and be in force the full terme and time of five years, from and after the ratification hereof, and from thence to the end of the next session of the Generall Assembly after, and no longer.

*Read three times, and ratified in open Assembly,
the 13th day of May, A. D. 1707.*

N. JOHNSON,
THOS. BROUGHTON,
HENRY NOBLE.
CHAS. BURNHAM,
ROBT. GIBBES,
JAMES RISBEE.

AN ACT for the better regulating the Watch in Charlestown.

No. 265.

(Passed July 12, 1707. This Act being identical with No. 207, is omitted.)

AN ADDITIONAL ACT TO AN ACT ENTITLED "AN ACT FOR REPAIRING AND EXPEDITIOUS FINISHING OF THE FORTIFICATIONS IN CHARLES TOWN," RATIFIED THE TWELFTH DAY OF JULY, A. D. 1707; AND FOR MAKING REPARATIONS TO ALL PERSONS FOR THE DAMAGES THEY SHALL SUSTAINED BY DEFENDING CHARLES TOWN, OR ANY OTHER PLACE REMOTE FROM THE PEOPLE'S RESPECTIVE DIVISIONS.

No. 272.

WHEREAS, the commissioner Capt Thomas Walker, by the said Act, is obliged not to exceed the sume of six hundred pounds for finishing the said fortifications, which said sume, being not only already expended, but severall persons who have supplied the country with their negroes (unless some further provision be made than in the before recited Act,) will receive considerable prejudice, and the said fortifications will likewise remain unfinished, whereby, in case of an enemy's invading us, we may be the less capable of defending this Province; and that the said fortifications may be made the more defenceable against the assaults and attacks of an enemy,

Preamble.

I. *Be it enacted* by his Excellency, John Lord Granville, Palatine, and the rest of the true and absolute Lords and Proprietors of Carolina, by and with the advice and consent of the rest of the members of the Generall Assembly, now met at Charles Town, for the south-west part of the said Province, That the said commissioner, Capt. Thomas Walker,

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is hereby impowered and required to pallasade with cedar the trenches in and about the said fortifications.

Fortifications
to be complet-
ed.

II. *And be it further enacted*, That from and after the ratification of this Act, the said Capt. Thomas Walker, commissioner aforesaid, is hereby required and impowered, in order to the compleat finishing and keeping in repair, (with cedar,) the fortifications round about Charles town, to press or hire tradesmen and negroes, and to buy cedar plank for the platforms, timber, posts and slabs convenient for repairing the same, and draw orders for the payment thereof, as fully and amply as before in the said Act he might, could or should do, and with such tradesmen, negroes, &c., with all expedition to compleat, finish and repair; *provided*, that the said severall orders exceed not the sume of one thousand pounds.

Compensation.

III. *And be it further enacted* by the authority aforesaid, That for better encouragement of the said commissioner to carry on and compleat the works directed by this Act, the publick Receiver for the time being shall, and is hereby required to, pay unto him the said commissioner, or order, the sume of thirty pounds per annum, for the space of two years, to commence from and after the ratification of this Act, and to be paid quarterly, for the looking after and keeping in repair the said works, and a fair account of the same shall keep and render to the Generall Assembly, as often as he shall be thereunto required.

IV. *And be it further enacted* by the authority aforesaid, That the said Thomas Walker, commissioner, shall be under the same fines and penalties for non-performance of his respective duties in the severall imployments, as in the before recited Acts is expressed.

Compensation
for damage in-
curred in the
public service.

V. *And whereas*, The inhabitants of this Province have been at great charges and expences in fortifying and intrenching Charles Town, and must be at further charge in keeping the same in constant repair, and may be called by the Governour and Commander-in-chief to defend the same, in case of invasion or alarm; *Be it therefore enacted* by the authority aforesaid, That if any person or persons, upon alarm or invasion, shall be ordered from their respective places of rendezvous in their severall precincts to Charles Town, or from Charles Town to any other place, by order of the Capt. Generall aforesaid, to oppose the enemy, and shall suffer any loss or damages thereby by the enemy, in their respective divisions, shall be fully satisfied for the same out of the publick treasury; which said damages shall be valued by three freeholders, upon their corporall oath, living nearest the places where the said damages are sustained, by vertue of a warrant from under the hand of the Governour and Captain Generall for the time being, upon complaint made by any person or persons so injured.

VI. *And be it also enacted* by the authority aforesaid, That a certificate under the hand of the aforesaid freeholders, containing the value of the said damages, shall be a sufficient warrant to the publick Receiver for the time being, to pay the same to the person or persons damnified, if there be a sufficiency in the treasury to pay the same; and in case there be not, the same shall be paid by a tax, equally levied upon the inhabitants and others having their interest in the Province, or by some other way, as shall seem meet to the Generall Assembly for the time being.

VII. *And whereas*, neat cattle goes loose about the town, which damifies the fortifications, contrary to an Act for that purpose, entitled "An Act to prevent the breaking down and destroying the fortifications, in and

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about Charlestown;" *Be it therefore enacted* by the authority aforesaid, That Capt. Thomas Walker shall have power, and is hereby impowered, to erect a common pound, at the most convenient place as he shall think fitt; and all such cattle as shall be found goeing loose about Charles Town, contrary to the aforesaid Act, shall be put into the said common pound, and there detained, untill the owners thereof shall pay, according as the said Act directeth, for every neat beast as shall be so impounded; and what charges the said Walker is at in erecting the said pound, he is hereby impowered to draw his note on the publick Receiver, who is hereby impowered and required to pay the same.

Loose cattle to
be impounded.

*Read three times, and ratified in open Assembly,
this 28th day of November, A. D. 1707.*

N. JOHNSON,
THOS. BROUGHTON,
HENRY NOBLE,
JAMES RISBEE,
CHARLES BURNHAM.

AN ACT FOR THE BETTER REGULATEING THE WATCH IN CHARLES TOWN, AND FOR SETTLEING AND MAINTAINING A WATCH AT THE FORT ON WINDMILL POINT. No. 276.

WHEREAS, in this time of war and eminent danger, a strict watch ought more especially to be kept in Charlestown, for the better preservation thereof, and maintaining good orders therein; as also for keeping and maintaining a watch, consisting of a sufficient number of men, at Windmill Point, as aforesaid—

Preamble.

I. *Be it enacted* by his Excellency John Lord Granville, Palatine, and the rest of the true and absolute Lords and Proprietors of the Province of Carolina, by and with the advice and consent of the rest of the members of the General Assembly, now mett at Charlestowne, for the Southwest part of this Province, and it is enacted by the authority of the same, That Richard Wigg, Mathew Porter and Robert Ellis, shall, by commissions under the hand and seal of the Right Honorable the Governor, be appointed commanders of the nightly watch in Charlestown, together with the watch at the fort on Windmill Point, and shall finde and procure thirty-six able watchmen, to be fitted as is hereafter directed; and the said commanders shall each of them command in their respective watches every night, and they are respectively required to keep up half the number of thirty-six watchmen every night at Charlestown and Windmill Point, as the Generall or Commander-in-chief shall direct.

Commanders
of watch.

II. *And be it further enacted* by the authority aforesaid, That every one of the said commanders shall, in his turne and on his watch night, have the whole command of the watch for that night, and all the watchmen under his command shall obey him as their proper officer for that night, and as they obey their captains and officers in time of allarum; and in order to enable the said commanders to make their rounds in their night watches, the commander whose turne it is to watch, shall, between the

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hours of six and seven of the evening of the same night, waite on the Commander-in chief then in town, to receive the word.

Corporal.

III. *And be it further enacted* by the authority aforesaid, That the several commanders, in their turnes of watching, shall have power, and every of them are impowered and directed, to make choice of one of the watchmen to be a corporal for that night, to assist him in posting sentrys and taking charge of the guard when the commander goes the round, and such person so made choice of is hereby also required and commanded to obey his officer in the quality of a corporal for that night.

Regulations.

IV. *And be it further enacted* by the authority aforesaid, That the said commanders, in their several turnes of watching, do take great care, and they are hereby enjoyned and comanded to be carefull, and see that the watchmen under their command be stout able men, not under sixteen nor exceeding sixty years of age, and that they have their armes well fixed and in good order; and that the commanders, by themselves, at least once in a week, do exercise all the watchmen in the ready use of their armes; and do take care that all disturbances and disorders in the night be prevented and suppressed; and to examine all persons at unseasonable hours of the night, of their business abroad, and whither they are goeing, and in case they give not reasonable satisfaction therein, or are persons of ill-behaviour, or justly suspected to have any unlawfull intention or designe, that in such case the said commander secure upon the guard all such disorderly or suspected persons untill the morning, and then to carry them before some justice of the peace, to be examined and proceeded against, according to the nature of their offence, and as is by law directed.

V. *And be it further enacted* by the authority aforesaid, That the said commanders shall each night, in their severall turns, go the rounds twice every night, and shall have power, and they are hereby impowered, at any time in the night, to enter into any public house in Charlestown, and to examine all such persons as they shall finde in said houses, and having just reason to suspect any to be disorderly persons, to secure them on the guard till morning, and then to carry them before a justice of the peace, to be examined and proceeded against according to law; and in case they finde any sailors in any of the said publick houses after the watch is sett, that he doe immediately secure them on the guard untill the next morning, and then carry them before a justice of the peace, to be examined; and in case they doe not make it appear to the satisfaction of said justice that they have leave from their respective comandars to be absent from their vessels and business, that then each sailor so offending shall forfeit the sume of five shillings, to be paid and distributed equally between the commander of the watch and their watchmen; and in case any sailor so convicted as aforesaid shall refuse to pay the said five shillings as ordered, it shall be lawfull for the said justice of the peace, and he is hereby required and impowered, to commit the said sailor to prison, that payment may be made as aforesaid; and the master or mistress of such public house in which such sailor or sailors is or are found, shall forfeit also ten shillings, to be distributed as aforesaid; which said forfeiture, if refused to be paid, shall be levied by a warrant under the hand and seal of any justice of the peace, by distress and sale of the offender's goods, returning the overplus, after necessary charges deducted; and for want of such distress, to commit such person or persons to prison untill payment be made.



VI. *And be it further enacted* by the authority aforesaid, That all and every of the aforesaid thirty-six watchmen, which by the said commanders Regulations. shall be inlisted or hired to keep watch in Charlestown and Windmill Point as aforesaid, shall be well and compleatly armed and fixed with armes and ammunition, that is to say, one good sufficient gun well fixed, and good cover for his lock, one good carteridge box with at least twenty carteridges of good powder and ball, one good belt or girdle, one ball of wax sticking at the end of the carteridge box to defend the armes in raine, one worm, one wier, four good spare flints, and a sword or bayonet, together with at least forty swan shott.

VII. *And be it further enacted* by the authority aforesaid, That if any of the said commanders whose duty it is to take charge of the watches, shall refuse or neglect in his turne, not being disabled by sickness, in which case he shall procure one other fitt and proper person in his room to command and officiate for him; and if the said commanders do not appear on their respective watch, be found drunk or asleep, or shall excuse any watchman from his ordinary duty, or shall neglect or refuse to receive the word, or go the rounds, or omit to exercise his men, such commanders, or such persons officiating for them as aforesaid, so offending, or being thereof convicted, by the oath of two credible persons, before a justice of the peace, for each offence shall forfeit the sume of five pounds, to be abated out of their wages, and to be given to the church-wardens of Charlestown, for the use of the poore of the parish of St. Philips, Charlestown; and if any of the said commanders hereby appointed to command the watch, shall depart this life, town or Province, or be rendered unserviceable by long and tedious sickness, that then the Right Honorable the Governor, or the Governor for the time being, shall appoint another fitt person in his or their roomes, who shall be, and he or they are hereby declared to be, the commander or commanders of the said watches by force of such appointment, untill the next sessions of the General Assembly, and so shall continue, unless removed by an ordinance of the same; and the person or persons so appointed shall have the same powers, and be under the same restrictions, fines and forfeitures, as the person or persons were, whom he or they shall succeed.

VIII. *And be it further enacted* by the authority aforesaid, That if any of the said thirty-six watchmen who are hereby obliged to watch, shall refuse or neglect to watch, or shall appear on the watch without his armes compleatly fixed and furnished as aforesaid, or shall be drunk on the watch, or go from thence to any house and there get drunk, or shall leave his guard before he be duly discharged by his respective commander, or shall disobey any of his lawful commands, such watchman shall, for every such offence, forfeit the sum of tenn shillings, to be paid to the church-wardens for the use of the poore as aforesaid.

IX. *And be it further enacted* by the authority aforesaid, That the said commanders who are hereby impowered to command the watches in their turnes, shall, from time to time, and at all times, follow such orders as shall be given them in charge by the Right Honorable the Governor for the time being, or the Commander-in-chief, concerning the ordering and disposing the watches, placing of centerys, or any other thing relating to their duty and the well performing their watches.

X. And for the better encouragement of the said commanders to be diligent and carefull in their respective turnes of watching, and as a re-Compensation. ward for the same, *Be it further enacted* by the authority aforesaid, That

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each of the said commanders shall be allowed at the rate of forty pounds per annum, current money of this Province, and that each inlisted watchman be paid at the rate of twenty pounds per annum, like current money, to be paid quarterly, by the commissioners hereafter mentioned, the first quarterly payment to be made the twenty-fifth day of July next after the ratification of this Act, and so to continue quarterly.

Assessment.

XI. *Whereas*, in order to the paying the above mentioned salaries, and defraying the other necessary charges, as fire and candles, and other contingencies of the watch in Charlestown and Windmill Point, it is necessary that an annuall revenue be raised, amounting to the sume of eight hundred and forty pounds, current money as aforesaid; *Be it therefore enacted* by the authority aforesaid, That in order to the raising the said sume of eight hundred and forty pounds annually, duely paid, that is to say, one third part thereof by an equall assessment upon the estates, real and personal, of the inhabitants that lieth within the plott of Charlestown, the other two-thirds by the public receiver for the time being, out of the publick treasury, to the commissioners hereafter nominated and appointed.

Roll to be made.

XII. *And be it further enacted* by the authority aforesaid, That Mr. William Gibbon, Major Alexander Parris, Mr. Lewis Pasquereau, Mr. Samuel Eveleigh and Mr. Richard Parke, shall be the assessors for this Act; and they, or any three of them, upon their oaths, administered by any justice of the peace of this Province, shall be, and are hereby, empowered to meet att Charlestown, on or before twenty days of each respective quarterly day of payment, and shall make a roll or schedule of the names of all such persons as by this Act are required to pay quarterly their proportion of the sume aforesaid; and the names of the said persons being entered in a toll or schedule, signed and sealed by them, the said assessors, or any three of them, shall, from time to time, deliver to the commissioners hereafter named, who shall give notice to all and every person concerned in the said roll or schedule, which is to make up the said sum of eight hundred and forty pounds, or to their attorneys or agents, how much money he or she is to pay; and if the said person or persons, or some other persons for them, do not, within ten days after such notice given, pay unto the commissioners hereafter named, or whom they shall appoint, the sume of money he or she is to pay, that then it shall be lawful for the said commissioners, or any two of them, and they are hereby authorized and required, by warrant of distress under their hands and seals, directed to any constable of this Province, to levey the same by distress on the goods and chattels of the persons so neglecting or refusing to pay, and to sell and dispose of the said goods so distrained, returning the overplus, after charges deducted; and for want of such distress, to commit the person to prison till payment be made.

Assessors.

XIII. *And be it further enacted* by the authority aforesaid, That Mr. Jacob Satur, Mr. Anthony Mathews and Mr. Elisha Prioleau, or any two of them, are hereby appointed assessors to rate and assess the aforesaid assessors and commissioners, according to the true intent and meaning of this Act.

Appeal.

XIV. *Be it further enacted* by the authority aforesaid, That if any person or persons, certified, assessed or rated, for or in respect of any matter or thing, by which by this Act he or they is rated or charged, doe finde him or them grieved or overcharged by such rating, in five days after notice given them of such assessment, may complaine or appeale to any

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one justice of the peace, inhabitant of Charlestown, who shall or may examine any person or persons so complaining, upon his or their corporal oaths, touching the value of his or their personall estates as aforesaid, and upon due examination, abate or default proportionably the said assessment, and the same so abated shall be certified by the justice aforesaid to the commissioners aforesaid, and such assessment so certified as aforesaid shall be deemed firm and valid in law.

XV. *Be it further enacted*, That in case any of the above mentioned assessors shall happen to dye or remove from Charlestown, that so there be not the full number of five, that then the Governour for the time being is hereby requested and authorized to appoint so many person or persons in Charlestown, to be assessors to make up the number of five, which shall so continue, unless removed by an ordinance of the General Assembly. Vacancies filled.

XVI. *And be it further enacted* by the authority aforesaid, That Mr. James Ingerson, Mr. Benjamin Godin, and Mr. Andrew Allen, or any two of them, be, and are hereby nominated, the commissioners mentioned in this Act, and to exercise all the authorities and powers given them as commissioners in this Act, and for the disposing of all moneys to be raised and laid out by virtue of this Act; and the commissioners aforesaid are nominated and appointed receivers of all the moneys to be raised by virtue of this Act, to be paid out by them, or any person or persons whom they shall appoint; which moneys shall be laid out by the commissioners aforesaid, for the paying the commanders and watchmen their wages or salary, which amounteth to the sume of eight hundred and forty pounds per annum, and for the contingent charges relating to the watches as aforesaid. Commissioners.

XVII. *And be it further enacted*, That in case any of the said commissioners shall happen to dye or remove from Charlestown, or refuse or neglect to do his or their duty, by this Act required, then the Governour for the time being is hereby requested and authorized to appoint some other inhabitant of Charlestown, to be commissioner or commissioners in the place of him or them so deceased or shall live out of Charlestown, or neglect or refuse his or their duty as aforesaid; which said commissioner or commissioners so appointed by the Governour as aforesaid, shall continue as such, unless removed by an ordinance of the General Assembly. Vacancies.

XVIII. *And be it further enacted* by the authority aforesaid, That all and every assessors and commissioners appointed by virtue of this Act, which shall and doe refuse or neglect to doe and performe all which things by this Act they are obliged and required, shall forfeit, for every offence, the sume of five pounds, one halfe to be paid to the publick receiver, for the use of the publick, the other half to him or them that will sue for the same in any court of record in this Province, by action of debt, bill, plaint or information, wherein no essoigne, protection, priviledge, injunction, wager of law, or stay of prosecution by *non vult ulterius prosequi*, or otherwise, shall be admitted or allowed. Penalty.

XIX. *And be it further enacted* by the authority aforesaid, That all sum and sums of money due to the late watchmen by virtue of an Act entitled "An Act for the better regulating a watch in Charlestown," ratified in open Assembly the twelfth day of July, one thousand seven hundred and seven, be collected according to the tenour of said Act, upon the penaltys therein inserted, and that the said sum or sums, with all expedition, be paid to the aforesaid watchmen, as appointed by said Act, Arrears to be paid.

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any thing in this Act to the contrary in any wise notwithstanding; and that all other things in the Act aforesaid, be repealed, and are hereby declared repealed, annulled and made void, to all intents and purposes whatsoever.

XX. *And be it further enacted* by the authority aforesaid, That this Act, and every thing therein contained, shall continue and be in force six months, and no longer.

*Read three times and ratified in open Assembly,
this twenty-fourth day of April, A. D. 1708.*

N. JOHNSON,
HENRY NOBLE,
JAMES RISBEE,
NICHOLAS TROTT,
CHA. BURNHAM.

No. 282.

AN ACT FOR SETTING A WATCH IN CHARLES TOWN.

Preamble. WHEREAS, there has been for a long time past, no regular watch kept in Charles Town, which, if not duly taken care of and in time prevented, now in this time of warr and eminent danger, may be of fatal consequence, and the ruin of this flourishing and thriving town.

I. *Be it enacted* by his Excellency, William Lord Craven, Palatine, and the rest of the true and absolute Lords and Proprietors of the Province of Carolina, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown, for the south-west part of this Province, *And it is enacted* by the authority of the same, That the constables of Charles Town shall, within five days after the ratification hereof, make a list of all the inhabitants of Charles Town, and the same to the Governor, or any justice of quorum dwelling in Charles Town, returne, and a list as aforesaid, every three months constantly to the Governour or justice aforesaid, returne, which list so returned, the constables aforesaid, beginning with the first names thereof, shall summon tenn men, well equipped with arms and ammunition as the Act of militia directs, to keep watch with him or them, or their deputies, (approved by the commissioners hereafter named,) in said town, from the hour of nine at night, to the hour of four in the morning, from the fifth day after the ratification of this Act, to the twentieth day of September following; and from the hour of eight at night, to the hour of six in the morning, from the twentieth day of September, to the twentieth day of March following; yearly, each person in his turne, as they are sett down in the said list; and in times of eminent danger, the Right Honorable the Governour, or the Governour for the time being, or any by him appointed, shall have power to double the said watch when they shall see occasion; and if it shall so happen one or more persons should be sick, that usually and generally watches in person, when it comes to his or their turne to watch, which sickness to be made appear before any of the commissioners, the said person or persons shall find or procure another person to watch in his or their roome or stead, which said person so sent shall have a certificate

Watch to be
summoned.

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as is hereafter appointed; and when all the persons in the said list have watched once round, or sent an able man in his room as appointed, then the first person in the said list to begin again, and so in order; and every person which after summons to watch or send an able man in his room, he or they that so neglects or refuses, shall forfeit five shillings, to be levied by a warrant under a justice's hand and seal, directed to a constable; and as often as any constable shall make return upon oath, that he cannot find effects upon which to execute said warrant, any one justice is hereby empowered to commit such person or persons to gaol, till payment be made; and every constable which shall or doth neglect or refuse, either by himself or deputy as aforesaid, to summons such persons as in course ought to watch, to forfeit ten shillings, for each neglect or refusal, to be levied as before appointed; and the forfeitures of each person which did neglect or refuse to watch in his turn, and likewise the forfeitures of the constables, shall be paid to the constables not neglecting or refusing to watch, towards the purchasing and buying of candles and fire-wood for the watch-house.

II. *And whereas*, severall houses in Charles Town are and may be inhabited by families, amongst whom are no male persons, but are well able to bear the charges of hiring a man to watch; *Be it enacted*, That every such family shall find a man to watch, and the constables in the list aforesaid shall returne such families; and every such person so returned that shall neglect or refuse to send an able man to watch for them as is hereby provided, shall forfeit the sum of five shillings, to be recovered in such manner and form, and for such use, as the forfeitures of those that shall neglect to watch in their own persons. Substitutes.

III. *And be it enacted*, That the watch-house fronting the broad street, be the watch-house for the constables appointed by this Act.

IV. *And be it enacted*, That no person shall put any man to watch in his stead, which shall not be first allowed and approved of, by a certificate under the hand of a justice of the peace in Charles Town; and every person which shall send any man to watch for him, not approved as aforesaid, shall forfeit as if he had not watched, or not provided any man in his room.

V. *And be it further enacted*, That any person or persons whatsoever, found sleeping upon the watch as aforesaid, being convicted thereof before a justice of the peace, shall forfeit ten shillings, for the use of him or them that will inform and sue for the same; and if any person being found sleeping as aforesaid, and convicted as aforesaid, shall refuse and deny to pay the forfeiture as aforesaid, shall, by order of any one justice of the peace, be tied neck and heels one hour next morning after such conviction. Sleeping on watch.

VI. *And be it further enacted* by the authority aforesaid, That Lieut. Coll. Alexander Parris, Capt. Michael Maury, Mr. Richard Wigg, Mr. Jacob Satur and Mr. William Gibbon, or any three of them, are hereby appointed commissioners to execute the powers granted them by this Act; and that in case any of the commissioners, or any other hereafter appointed, shall depart this life or go out of this Province, the Governour for the time being is hereby desired, empowered and authorized to appoint another in his or their rooms, which person so named and appointed shall have the like power as the aforesaid commissioners have or shall have. Commissioners

VII. *And be it further enacted*, That this Act, and every thing therein

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contained, do continue in force for and during the space of two years after the ratification thereof, and from thence to the end of the next session of the Generall Assembly, and no longer.

*Read three times and ratified in open Assembly,
the 7th day of May, 1709.*

N. JOHNSON,
GEO. SMITH,
THOS. BROUGHTON,
RICH. BERESFORD.

No. 296. AN ACT FOR THE ERECTING OF A NEW BRICK CHURCH AT CHARLES TOWN, TO BE THE PARISH CHURCH OF ST. PHILIP'S, CHARLES TOWN.

Preamble. WHEREAS, severall persons are desirous to have a new Church built of brick in Charles Town, to be the Parish Church there, and a tower or steeple, and a ring of bells therein, together with a cœmetry or church-yard, to be inclosed in a brick wall, for the burial of christian people. And *whereas*, several charitable and well disposed persons would contribute towards the building of a church as aforesaid, in case any person or persons were authorized and appointed to receive and take care of all such moneys as shall be given and collected for the building of a church as aforesaid, and would be supervisor or supervisors for the building of the said church, as also for the inclosing the cœmetry or church-yard; and also that there was a convenient place appointed, upon which to build the same, and for the inclosing the cœmetry and church yard—

Commissioners
impowered to
take a grant of
any town lot to
build the
church upon,

I. *Be it therefore enacted*, by his Excellency, William Lord Craven, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the Generall Assembly, now met at Charlestown, for the south-west part of this Province, and by the authority of the same, That the commissioners hereafter named, or any two of them, shall have power, and they are hereby impowered and authorized, to purchase and take a grant or conveyance of any town lott or lotts in Charles Town, from any person or persons whatsoever, that are owners of, or otherwise authorized and impowered to sell and convey the same; and the town lott or lotts so purchased and conveyed to the said commissioners, for the use of the cœmetry or church-yard, and the building of a church upon the same, shall be appropriated and separated, and the same is hereby appropriated, separated and dedicated to the service of God, for a new church to be built thereon, and to be the cœmetry or church-yard, for the burial of christian people; and when a church shall be built thereon, and the cœmetry or church-yard inclosed, the same is hereby enacted and declared to be, the Parish Church and church-yard of St. Philip's, Charles Town.

II. *And be it further enacted* by the authority aforesaid, That the Rev. Mr. Gideon Johnston, Coll. William Rhett, Coll. Alexander Parris, Mr. William Gibbon, Mr. John Bee and Mr. Jacob Satur, be, and they are

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hereby appointed, commissioners or supervisors for the building of the said church, and that they, or any of them, be impowered and authorized to take subscriptions, and to receive, gather and collect, all or any such sum or sums of money as any charitable and well disposed person or persons shall contribute for the purposes aforesaid.

Commissioners
to receive money.

III. *And be it further enacted* by the authority aforesaid, That the said commissioners or supervisors, or any of them, out of the said money that shall be so collected, shall have power, and they are hereby authorized and impowered, to purchase one or more town lot or lots for the cœmetry or church-yard, and on the same to build the said church, and the steeple to the said church, of such highth and dimensions, and of such materials, and in such model and form, as they shall think fitting; and shall also inclose the said cœmetry or church-yard with a wall and one or more gates, of such materials and of such dimensions as they shall think fitting; and shall also procure a ring of bells, of such number, weight and bigness, as they shall think fitting and direct.

And build
Church, &c.

IV. *And be it further enacted* by the authority aforesaid, That after the said Church is built, that the pews in the said church shall be built by the direction and appointment of the said commissioners, by and with the advice and consent of the major part of the vestry of the Parish of St. Philip's in Charles Town; and in case any difference shall arise about the building of any the pews, that the same shall be finally decided by the Governour and Council of this Province, excepting the great pew designed to be built in the said church for the use of the Governour and Council, which shall be built in such place in the church, and of such dimensions and form, as the Governor and Council shall direct.

Pews.

VI. *And be it further enacted* by the authority aforesaid, That in case of the death of the commissioners, or any of them, the vestry for the time being shall, and they are hereby impowered to, nominate another in the stead and place of the commissioner or commissioners so deceased.

Vacancies.

VI. Which enacteth, that Mr. Aiken Williamson shall be allowed out of the publick treasury thirty pounds per annum, during his life.

*Read three times and ratified in open Assembly,
March 1, 1710—11.*

ROBT. GIBBES,
ROBT. DANIEL,
SAML. EVELEIGH,
THOS. SMITH,
THOS. DISTON,
STEPHEN GIBBES.

AN ACT for the keeping and maintaining a Watch and good orders in No. 306.
Charlestown.

(Passed 10th November, 1711. This Act is similar to others on the subject, and therefore omitted.)

VII.—8.

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No. 335. AN ADDITIONAL ACT TO AN ACT ENTITLED "AN ACT TO PREVENT AND SUPPRESS FIRE IN CHARLES TOWN."

Preamble.

WHEREAS, notwithstanding the provision made by the said Act intituled "An Act to prevent and suppress fire in Charlestown," duely ratified in open Assembly the fourth day of November, 1704, fires have several times happened to break out in the said Charlestown, principally occasioned by reason of the joyning and nearness of the buildings, being mostly timber; for the better preventing of such accidents for the future, and damage and loss thereby,

No building to
be erected in
Charlestown
but of brick.

I. *Be it enacted* by the most noble Prince, Henry, Duke of Beaufort, Lord Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the Generall Assembly, now mett at Charlestown, for the South-west part of this Province, and by the authority of the same, That after sixty days from the ratification of this Act, no dwelling house, shop, ware-house, barne, stable, or any other building whatsoever, of timber, (unless the said timber be upon the very spot of land,) shall be erected or set up within the lines of the fortifications of Charlestown, but of brick, unless in particular cases, as hereafter is directed by this Act; and if any person shall presume to erect, or cause to be erected, any frame or building of timber, contrary to the true intent and meaning of this Act, upon conviction thereof before any three or more of the commissioners hereafter appointed by this Act, such building shall be deemed a common nuisance, and the owner of such frame or building shall enter into a bond or recognizance, in such sune as the said commissioners, or any three of them, shall think fitting, to demolish the same; and in default of entering into such bond or recognizance, shall, by the said commissioners, or any three of them, be committed to prison, there to abide, without bail or mainprize, untill he or she shall cause the same to be demolished; or else such building shall be demolished by order of the said commissioners, or any three of them, and the charges thereof to be levied by distress and sale of such offender's goods, by warrant from any three of the said commissioners, directed to any of the constables of Charlestown, who are hereby required and commanded to execute all such warrants, under the forfeiture of ten pounds for every neglect therein.

II. *And be it further enacted* by the authority aforesaid, That every person building as aforesaid, with brick, shall have liberty to set half his partition wall in his next neighbour's ground, so he leave a toothing in the corner of such wall, for his neighbour to adjoyn unto, who, when he shall build, such neighbour adjoining shall pay for one half of the said partition wall, so far as he makes use of the same.

Straw &c., not
to be kept in
houses.

III. *And whereas*, several fires have lately happened in Charlestown, by reason of persons keeping straw or fodder in their houses; for the prevention of which evil for the future, *Be it further enacted* by the authority aforesaid, That in four months after the ratification of this Act, no person in Charlestown whatsoever, shall be permitted to keep any straw or hay in his dwelling house or kitchen, or out-house that is joyning to his dwelling house, on the penalty of the forfeiture of ten pounds for every such offence; and the commissioners of this Act, or any three of them, to have power to order such straw or hay to be removed.

IV. *And whereas*, by the above mentioned Act to prevent and suppress fire in Charlestown, James Risbec, William Rhett and John Buckley,

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Esqrs., Major William Smith and Capt. Edward Loughton, or any three of them, are thereby named and appointed the commissioners for the said Act, but no provision is made for supply and continuance of the commissioners in case of death or removal; and whereas, the said John Buckley and Edward Loughton are since deceased, and the said James Risbee removed out of this Province, and the said William Smith is removed out of the town, so that the said William Rhett is the only commissioner now remaining in Charlestown, whereby a sufficient number of commissioners are not left to put in execution the powers granted to the said commissioners by the said Act; for the remedying of which, *Be it further enacted* by the authority aforesaid, That Samuel Eveleigh, Esq., Col. William Rhett, Col. Alexander Parris, Mr. John Guerard, and Mr. John Bee, be, and are hereby appointed, the commissioners, and they, or any three of them, are hereby appointed the commissioners to put in execution all the powers granted to the commissioners in the above recited Act, to prevent and suppress fire in Charlestown, and also all the powers granted to the commissioners in this additional Act; and that in case of death or removal of any of the said commissioners, it shall be lawful for the honourable the Governour and his council, for the time being, and they are hereby authorized and required, to supply the number of the said commissioners out of any of the inhabitants of the said Charlestown; and such persons so appointed to be commissioner by the said Governour and council, shall have all the powers of commissioners, as fully and amply, to all intents and purposes, as if they were expressly named in this Act, and shall continue as such until removed by the vote of the House of Commons, and others by them nominated in their rooms.

Com'rs. appointed.

V. *And be it further enacted* by the authority aforesaid, That as soon as conveniently can be, after the ratification of this Act, an engine, with buckets and other necessities for the extinguishing of fire, shall be purchased and provided by the commissioners aforesaid, or any three of them, for the use of the said Charlestown; and the said commissioners, or any three of them, are hereby further impowered to order wells to be dug, and to fix pumps, in such convenient places in Charlestown as shall be thought proper, to supply the engine and buckets with water; and to defray the costs of such engines, buckets and other necessities, and also the wells and pumps, it shall be lawful for the said commissioners, or any three of them, by an order under their hands, to order any three or more discreet persons to make an assessment upon the owners of the houses within the intrenchments of Charlestown, according to the value of the several houses; and upon refusal or non-payment of such assessment, to levy the same upon the persons assessed, by warrant of distress, directed to any of the constables of Charlestown, signed by any three of the said commissioners; and the constables are hereby obliged and commanded to execute such warrants, under the penalty of five pounds for every neglect.

Engines, &c. to be provided.

VI. *And be it further enacted* by the authority aforesaid, That all the sums of money, fines and forfeitures, mentioned in this Act, not exceeding the sum of forty shillings, and not before particularly disposed of, nor the manner of the recovery directed by this Act, shall be prosecuted, adjudged, levied and distrained, by warrant from any one justice of the peace in this Province, as in the Act for the trial of small and mean causes is directed; and the same being so recovered, shall be paid to the commissioners of this Act, towards the repairing of the engine, buckets, ladders and other utensils for the extinguishing of fires; and all the sums of

Fines, how to be recovered and disposed of.

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money, fines and forfeitures, mentioned in this Act, exceeding the sum of forty shillings, and not before particularly disposed of, nor the manner of the recovery directed by this Act, the one half thereof shall be paid to the commissioners of this Act, for the uses aforesaid, and the other half to him or them that will sue for the same, by action of debt, suit, bill, plaint or information, in any court of record in this Province, wherein no essoign or wager of law, or stay of prosecution by *non vult ulterius prosequi*, or otherwise, shall be allowed or admitted.

General issue
may be plead-
ed, &c.

VII. *And be it further enacted* by the authority aforesaid, That if any action, plaint, suit or information, shall be commenced and prosecuted against any person or persons, for what he or they shall do in performance or execution of this Act, such person or persons so sued may plead the general issue, not guilty, and upon issue joyned, may give this Act and the special matter in evidence; and if the plaintiff or prosecutor shall become non-suit, or suffer discontinuance, or if a verdict pass against him or them, the defendant or defendants shall recover his or their treble costs, for which he or they shall have the like remedy as in any cases where costs by law are given to the defendants.

Read three times and ratified in open Assembly, December 18, 1713.

CHARLES CRAVEN,
CHARLES HART,
ARTHUR MIDDLETON,
RALPH IZARD,
RICHARD BERESFORD,
SAMUEL EVELEIGH.

No. 341. AN ACT for the keeping and maintaining a Watch and good orders in Charlestown.

(Passed December 18, 1713. Similar to previous Acts on the same subject, and therefore omitted.)

No. 345. AN ADDITIONAL ACT TO AN ADDITIONAL ACT TO AN ACT ENTITLED
"AN ACT FOR PREVENTING THE SEA'S FURTHER ENCROACHMENT ON
THE WHARFE OF CHARLES TOWN, AND FOR REPAIRING THE BAS-
TIONS, HALF-MOON AND REDOUBTS OF THE SAME,

Preamble.

WHEREAS, the wharfe before Charles Town was fenced with a brick wall and pallasaded, in order to defend the sea's encroachment on the said wharfe, but finding said wall and pallasadoes not sufficient to secure Charles Town, especially the front thereof, against the violent storms and hurricanes, that for these two years last past hath been upon us, to the undermining and ruining great part of the fortifications and front wall before Charles Town, and will in few years, if timely care be not

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taken, break down and carry away all the remaining wharfe, with the houses next thereon standing—therefore, for prevention thereof,

I. *Be it enacted* by his Excellency the Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown, for the South-west part of the said Province, and it is *enacted* by the authority of the same, That all and every person or persons, that hold, by what title soever, any lot or lots, or part of any lot or lots, which joyn next immediately to Granville Bastion, the north side thereof, and to the southernmost side of Craven Bastion, butting upon Cooper River, shall, before the first day of September next after the ratification hereof, make, or cause to be made, before so much of the wharfe as lyes before all the land he hath pointing to Cooper River within the limits aforesaid, a brick wall, the length of five bricks at the foundation, and diminishing to four bricks on the top, with sufficient land ties, such as the commissioners hereafter named shall think fit, and in such manner as is hereafter provided, that is to say: all the aforesaid owners of the said lots, from the northernmost end or side of Granville Bastion, to the south side of the lot of Mr. Francis Scampton, deceased, shall build the wall aforesaid, from the foundation thereof, even with that entire part of the said wall as is now standing; and all the aforesaid owners of the said lots, from the southernmost part of Coll. Robert Daniel's lots, to the south side of Craven Bastion, shall build the said wall as aforesaid, even with that entire part of the said wall as is now standing; and the foundation of all and every part within the said wall, fronting the whole wharfe, by each and every respective owner thereof, shall be filled up to the superficies of the said street or wharfe, according as the commissioners hereafter named, or any two of them, shall approve; and the said wall, with the filling up, shall be kept in repair, at the sole cost and charge of every respective owner thereof; but if the said commissioners shall think fit, that any part of the foundation is not sufficient to bear the said wall, the aforesaid commissioners, or any two of them, are hereby ordered to make said foundation good, at the sole charge of the owner.

II. *And be it further enacted* by the authority aforesaid, That if any person begins to work and build his respective part of the said wall, before his next adjoining neighbour begins, shall be obliged to build the end or ends of his part of the said wall with a rocking back toothing equitably proportioned, both in labour and materials, as to the surface of the foundation in his neighbour's ground, and want of the topp of his own wall, to be adjudged by the said commissioners; or otherwise, if he build and finish the end of his said wall to the extremity of his own part upright, in such case, the said person or persons so doing, shall leave also a good and usual toothing thereto; and shall also, at and against the end of the said wall, build a good butting for the support of the same, in such manner and form as the commissioners aforesaid shall direct; which said buttress shall be built in such place as a party wall ought to be; and every person or persons whose wall shall be first built, shall recover of and from his next neighbour adjoining, the one half of all his aforesaid charges of the building the said buttress so built and finished, by warrant from any justice of the peace, as in the Act of small and mean causes is directed.

III. *Whereas*, several persons lay claim to sundry lots upon the Bay, from high-water to low-water mark, who do not contribute to the building

Brick wall to
be built, and
how.

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of the front wall; *Be it enacted* by the authority aforesaid, That any persons who shall build or erect a bridge, from high-water mark as aforesaid, shall reimburse the charges that the proprietors of the lot or house fronting the said wall shall be at, in proportion to the breadth the said bridge shall reach.

IV. *And be it also enacted* by the authority aforesaid, That any person whatsoever which shall presume to begin, or having begun, shall deviate from the manner and method of building their respective part of the wall as before is prescribed and directed, in such case, after due direction and notice given by the commissioners, it shall and may be lawfull for them the said commissioners to rase and demolish that part of the wall which shall be done contrary to the said direction.

Penalty.

V. *And be it further enacted* by the authority aforesaid, That any person whatsoever which holds by grant, or any other conveyance, any lot or lots, or part of any lot or lots as aforesaid, which shall not, within the limited time aforesaid, build his said wall, as by this Act is directed, shall forfeit the sum of two hundred pounds for each and every lot, and so in proportion for a lesser quantity, which he she or they shall neglect or refuse to build as aforesaid; and if any person or persons shall refuse or neglect to pay the commissioners, or any two of them, the forfeiture or forfeitures as aforesaid, within thirty days after the limited time in this Act for building the said wall, in such case, the commissioners are hereby appointed and impowered to enter on the same, and in their possession to keep for the use of the publick, untill they shall sell or dispose of the said lot or lots, or any part of any lot or lots, by publick outcry, with the buildings thereon standing or appertaining; and such sales made by them, or any two of them, under their hands and seals, are hereby declared good in law, against any former title or grant whatsoever; and all the money arising by the said forfeitures or sales of any of the said lots, shall be employed by the said commissioners to the use of the building said front wall of the several lots or parts thereof from whence the forfeitures arise; and the overplus, (if any there be,) which shall arise from the said sales, fines or forfeitures, the charges thereof being first deducted, shall be returned to the owner.

Commissioners

VI. *And be it further enacted* by the authority aforesaid, That Richard Beresford, Esqr. Charles Hill, Esqr. and Capt. M. Porter, or any two of them, be, and are hereby appointed, nominated and impowered, commissioners to order and direct the place every person shall build his respective wall, with all the other powers hereunto them granted and confirmed; as also, by an order under their hands, or any two of them, to the Receiver for the time being, who is hereby ordered to accept the same, shall draw out of the publick treasury such sum or sums of money as are necessary for building the said wall, staires and wharfes; and if any land, or lot, or part thereof, which is not taken up between the north side of Granville Bastion, to the south side of Craven Bastion, on the Bay fronting Cooper River, such untaken up land on the front shall be built at the publick charge, and remain to the benefit of the publick.

Penalty on
Commissioners

VII. *And be it also enacted* by the authority aforesaid, That if the commissioners aforesaid shall refuse or neglect to enter and take possession of the aforesaid forfeited lot or lots, and shall not expose to sale by public outcry, within thirty days after such seizure, each commissioner and commissioners shall forfeit the sum of one hundred pounds for each and every default for want of such entry and sale as aforesaid, to be recovered

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by bill, plaint or information, in any court of Record within this part of this Province, wherein no essoign, protection or wager of law shall be allowed or admitted; one moiety thereof to be paid into the hands of the publick Receiver, for the use of the fortifications, the other half part to be paid to such person or persons that will inform and sue for the same.

VIII. *And be it further enacted*, That the commissioners that shall attend the seizure and sale of any lot or lots, or part of any lot or lots, forfeited as aforesaid, shall be allowed and paid out of the moneys arising by the sale of any lot or part thereof, ten shillings for every day they shall be employed in and about the seizure and sale of any lot or part thereof; *provided*, they shall not be paid for more than six days in the whole, for attending the seizure and sale of any lot or lots, or part of any lot or lots, as aforesaid. Compensation.

IX. *And be it further enacted* by the authority aforesaid, That from the northermost part of Francis Scamptons land, to the southermost part of Coll. Robert Daniel's lots, a good and substantial bridge or arch shall be built of brick, of the length of twenty feet, and eight feet wide, capable of bearing any carriage over it, either of carts and horses, or of the great gunns, for the better communication of Charles Town. Bridge.

X. *And it is also enacted*, That a breast-work shall be built, three feet and an half high, on the front line of Charles Town, diminishing to two bricks and an half in thickness, from the southermost end of Craven Bastion, to the northermost side of Granville Bastion; and that the said front line shall have a double pileing, drove from the southermost side of Granville Bastion, to the northermost side of Craven Bastion, the first or inside pileing to be of cedar, to be of such lengths as the aforesaid commissioners, or any two of them, shall appoint; between which first pileing and the brick wall, shall be put oyster shells or sodds, and to such a height filled, as the said commissioners shall direct, to break the force of the surges of the sea in the most violent weather; the outward pileing shall be of such pine timber as grows on the land belonging to the publick, upon James's Island; and what is wanting to compleat the said outward pileing, to be of cedar, or such other good and lasting timber as the commissioners aforesaid shall approve; the sole charge of building the aforesaid bridge, and the breast-work on the top of the wall, with the pileing and filling up along the front line, to be at the publick's expence; and all the stairs fronting each street shall be repaired at the charge of the publick, for the sole benefit thereof, according to the direction and discretion of the aforesaid commissioners; and that all the Bay fronting the eastward of the said streets, shall be and remain for the use of the publick, and not put to any use without the consent of the Generall Assembly. Breast-work.

XI. *And be it further enacted* by the authority aforesaid, That Granville Bastion, the Half-moon, Craven Bastion, and all the redoubts on the front line of Cooper River, be repaired, and the redoubt by Joseph Holbeatch's be anew rebuilt with brick or timber, their several foundations to be made good and well secured, and their several platforms to be well repaired, according to the direction and discretion of the commissioners, or any two of them, who are hereby impowered, for building and finishing the fortifications on the front line, and pileing the same, together with the arched bridge and breast-work on the front line or wall, from time to time to draw out of the publick treasury such sum or sums of money as they shall have occasion for, and judge necessary for carrying on the repairs, building and finishing the said several publick works mentioned in this Appropriation. Repairs.

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Act, by order under their hands, or any two of them, directed to the public Receiver for the time being, who is hereby ordered to pay the same; and the commissioners aforesaid are hereby required and commanded to keep a fair and just account of all disbursements on the building and repairing the said fortifications, by them ordered to be paid out of the publick treasury, and render the same to the Commons House of Assembly, when and as often as they shall be thereunto required.

Workmen and materials may be impressed.

XII. *And be it further enacted* by the authority aforesaid, That the aforesaid commissioners, or any two of them, shall have power, and they are hereby impowered, to impress bricklayers living in any part of this province, to work on the front wall and fortifications, at the rate of ten shillings per thousand laying the bricks, or ten shillings per diem, be the labour for any repairs of the fortifications, or for any part of the wall which is to be built by the owners of the front lots; and shall have power to impress carpenters or any other handicrafts, where their work is necessary, relating to the said front wall and fortifications, to work at the rate of ten shillings per diem; and shall also have power to impress white men for overseers, at the rate of seven shillings and six pence per day; and any negroes from any persons living within the limits of Charlestown, whether their said negroes be in town or country, at the rate of four royals per diem for able negro men, to work and tend the workmen on the said wall and fortifications, their masters finding them victuals; but if the negroes are tradesmen, to be allowed as the commissioners aforesaid shall think fit; and shall also have power to impress lime, and fetch the same from any plantation, at any rate not exceeding six pence per bushell; but in case the owners of lime bring it to Charles Town, then it shall be lawfull for the said commissioners to take the lime so brought, at any rate not exceeding nine pence per bushell; and the said commissioners are also impowered to press bricks from any person within this part of the Province, for building the said wall and repairing the fortifications, and the publick to pay not exceeding twenty shillings per thousand, and each person for building the front wall, not exceeding twenty shillings per thousand; but if the said bricks are by the owners thereof brought to Charles Town, then to be paid not exceeding twenty-five shillings per thousand, by the publick, and by the owners of any lot, not exceeding twenty-five shillings per thousand.

XIII. *And be it further enacted* by the authority aforesaid, That in case any white man is impresst to work, according to the powers given the commissioners in this Act, shall refuse to work as directed by the said commissioners, if a tradesman, he shall forfeit for every day's neglect, the sum of twenty shillings current money; and if a white man, for an overseer, fifteen shillings current money for every day's neglect; and if a negro, the master to forfeit five shillings like current money, for every day's neglect; all which penalties shall be levied by distress and sale of the offender's goods, by warrant from the aforesaid commissioners, or any two of them, directed to any constable of this province, who are hereby commanded to execute the same, upon the penaltie of forty shillings for every neglect, to be recovered by warrant from any justice of the peace, as in the Act for the tryal of small and mean causes is directed; and in case sufficient distress cannot be found, it shall be lawfull for the said commissioners, and they are hereby impowered and required, by warrant under their hands and seals, or of any two of them, directed to

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the provost marshal of this Province, to commit such offending person to prison for any time not exceeding a week, for one day's neglect.

XIV. *And be it further enacted* by the authority aforesaid, That in case the said commissioners, or any three of them, or any person by their order, shall leave a note at the dwelling house of any person, requiring him to come and work upon the fortifications or front wall, or to send his negroes to work, according to the powers given by this Act, such notice shall be deemed a pressing within this Act, so as to subject the person offending and neglecting his duty, to the penalties before appointed by this Act.

Notice.

XV. *And it is also enacted* by the authority aforesaid, That in case any of the workmen or other the labourers are idle, and do not perform their work dilligently and according as they shall be directed by the commissioners, or any two of them, it shall be lawfull for the said commissioners to mark or prick out so much of their idle or lapsed time of neglect, and deduct the same out of their wages; and in case of his or their refusal to obey in the direction they give relating to their work, it shall then be lawfull for any quorum of the said commissioners, to commit him or them to prison, if white men, and if negroes, to order such moderate correction as they may think fit.

Punishment for idleness and disobedience.

XVI. *And be it further enacted* by the authority aforesaid, That all the forfeitures arising by this Act shall be paid to the said commissioners, to and for the use and towards the charges of building and repairing the fortifications on the front line appointed by this Act, and to no other use whatever.

XVII. *And whereas*, the publick magazine is found not to be well and sufficiently covered to preserve the powder therein lodged from any storms of rain which may happen, to the great hazard of endangering the said powder; *Be it therefore enacted* by the authority aforesaid, That it shall and may be lawfull for the commissioners aforesaid, or any two of them, and they are hereby authorized and impowered, to buy and agree for any quantity of slate that may be convenient and requisite, for the covering of the said magazine, and the publick Receiver is hereby obliged to pay such sum as the said commissioners shall draw upon him for that purpose and the workmanship therein.

Powder Magazine.

*Read three times, and ratified in open Assembly,
the 18th day of December, 1714.*

CHARLES CRAVEN,
CHARLES HART,
R. IZARD,
HUGH BUTLER,
SAML. EVELEIGH.

AN ADDITIONAL ACT TO THE ACT NOW IN FORCE, RELATING TO THE No. 396.
FORTIFICATIONS IN CHARLES TOWN.

FOR the more speedy putting the bastions of the Fortification of Charles Town in a posture of defence, and mounting the great guns,

1. *Be it enacted* by his Excellency, John Lord Carteret, Palatine, and
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Sole Commissioner to be appointed.

the rest of the true and absolute Lords and Proprietors of the Province of Carolina, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charles Town, for the South and West part of the said Province, and by the authority of the same, That the Governour and Council may, and they are hereby impowered to, agree with a person who shall be sole commissioner for undertaking, managing and overseeing the repairing of the Bastions, mounting the great guns, and perfecting every matter and thing relating thereto, in as expeditious a manner, and of such materials, as the present necessity of this affair requires; which agreement so made by them, shall be made good by the publick of this Province; which sole commissioner shall be under the orders and directions of the Honourable the Governour, and is hereby impowered and vested with all the powers and authority for doing the said works, as any commissioners have now, or heretofore had, by any law of this Province relating to the fortifications of Charles Town, as if all the said powers were actually herein inserted.

Mode of employing workmen.

II. And for the more effectual doing the same, *Be it further enacted* by the authority aforesaid, That every Parish in this Province shall send an able male working negro slave, such as the commissioner shall approve of, for every tenth working male negro in the same, with provisions for the whole time, to be put to such works about the said bastions, platforms and great guns, as the said sole commissioner shall direct; which male negroes shall be sent by an order directed to persons possessing the said negroes, which if they refuse to discover the number of such negroes, he or they shall forfeit fifty pounds for each working male negro he is possessed of, to be recovered by the said sole commissioner, and applied by him to the use of the said works; after the manner and form as shall be appointed by the inquisitors for the tax of each Parish; and if any person shall refuse or neglect to send such negroes as shall be so directed, then they shall pay the sum of twenty pounds current money, for each negro, to the sole commissioner aforesaid; otherwise the said sum shall be distrained, by warrant under the hand and seal of the said sole commissioner, with the charges arising thereon, which sums shall be applied to the use of the said fortifications.

Further provision.

III. But in case the said negroes, or the money arising by the defaulters aforesaid, are not sufficient to perform the said works; *Be it therefore further enacted*, That the commissioner aforesaid shall have power to draw orders on the publick Receiver of this Province, for such sums of money as shall be so wanting for the payment of the tradesmen, labourers, overseers or artificers employed by him about the said works; and the publick Receiver is hereby required to pay the same, out of the duties arising by negroes imported into this Province; which duties are hereby appropriated to the said use, and no other; and allow an interest after the rate of ten per cent per annum on such orders, untill he has money sufficient on that fund to call in and cancel the same.

IV. *And be it further enacted* by the authority aforesaid, That if any doubt or scruple shall arise through any misinterpretation or imperfection in the wording of this Act, contrary to the true design of the same, that then it shall be lawful for the Governour and Council of this Province, to interpret the true sense of the same; any law, custom or usage to the contrary in any wise notwithstanding.

V. And for securing the water passage leading into this Province from St. Augustine, *Be it further enacted*, That the present commissioners of

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the Scout Boats are hereby impowered to finish the fortifications begun at the north end of Mackey's Island, and mount there, and at Beaufort, any number of great guns, not exceeding twelve, for the security of the said frontier; and that for the more expeditious doing the same, the proportion of negroes that ought to be sent as above directed, to Charles Town, from Edistoe Island, and all the islands between the same and Port Royall inclusive, shall be, and they are hereby required to be, sent to the said works, under the like penalties as is before directed, any thing hereinbefore to the contrary thereof notwithstanding.

Inland passage
to be secured.

VI. *And be it further enacted*, That the said water passage shall have a guard of at least twenty hired men, the men belonging to Scout Boats inclusive, under the establishment of the present pay of the Scout Boats.

Wages, how to
be paid.

VII. And as there is yet no provision made for the said Scout Boats and the wages of men, and providing necessaries for the same; *Be it enacted*, by the authority aforesaid, That the said commissioners of the Scout Boats are hereby impowered to draw orders on the publick Receiver, half yearly, for the said wages, and for the necessaries provided for them as aforesaid; and the publick Receiver is hereby directed to pay the same, out of any other duties remaining in his hands; which, if it should prove deficient, the Generall Assembly is to make further provision for the same upon the auditing the accounts of the said commissioners of the Scout Boats, by a committee of the House of Commons.

VIII. *Provided always, and be it further enacted*, That Johnson's Fort shall be forthwith repaired by the direction of the commissioner appointed by the tax Act, or in case the said commissioner should be unable to go through the said work by sickness, then the Governour shall appoint another person in his room, who is hereby impowered with all the authorities for the said works, as the commissioner of Charles Town is vested with; and the proportion of negroes to be sent to Charles Town from all the inhabitants living to the south and west of Ashley River, are hereby directed to be sent to the works at Johnson's Fort, under the same penalty as is above directed; any thing hereinbefore to the contrary in any wise notwithstanding.

Johnson's
Fort.

IX. *And be it further enacted*, That the two thousand pounds appropriated by the tax Act, for the repairs of Johnson's Fort, shall be appropriated only to paying the tradesmen that mounts the great guns, and laying the plat-forms, and buying planks for the carriages, and other necessaries for the same; and if there remains any overplus of the said two thousand pounds, after the said works are paid for, then such overplus shall be paid by the commissioners of the tax, towards the like works in Charles Town, by order of the sole commissioner aforesaid.

X. And in case any person have more or less than ten male working negroes, from the age of sixteen to sixty, that there may be an equal proportion sent by every person, and that the burden may be as equal as possible, *Be it further enacted*, That all persons that have a less or greater number of male working slaves than ten, shall pay forty shillings per head, for each male working negro he shall have under or over every tenth, or send an able working slave to the said works, who shall continue at the same, after the rate of seven shillings and six pence per day, untill the said sum of forty shillings per head shall be discompted by his work to the sole commissioner of Charles Town, or the commissioner of Johnson's Fort or Scout Boats, as is before directed, under the penalty to have the same distrained by the said commissioners in the divisions appointed by this Act for each work, with charges arising thereby.

Apportion-
ment.

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Assessment.

XI. *And be it further enacted*, That the assessors appointed by the tax Act, shall assess the inhabitants living within the town plot of Charles Town, on their estates real and personal, the sum of one thousand five hundred pounds, being computed to be the sixth part of the value of the hire of the negroes employed in the said works, and sent by the several Parishes of this Province; which assessment shall be paid to the said sole commissioner aforesaid, towards paying the workmen and other charges of the said fortifications; the hire of the said negroes to be valued at seven shillings and six pence per day, for fifty working days, which they are not to exceed, about any of the fortifications; and if any of the said inhabitants shall refuse to pay such assessment as aforesaid, the sums so refused, with the charges of distraining, shall be distrained upon the estates of such person or persons, by a warrant under the hand and seal of the said commissioner, directed to any constable in Charles Town, who are hereby empowered to execute the same, always returning the overplus to the owner, after all charges deducted.

Overseers.

XII. *And be it further enacted* by the authority aforesaid, That there shall be sent or hired by the inquisitors of each parish or division, one white man for every twenty negroes, out of such parishes or divisions as sends negroes to that number, who shall come armed according as it is prescribed in the militia Act; and shall be paid after the rate of thirty shillings a day, by the said sole commissioner, or the other commissioner for the works at Johnson's Fort, out of any of the money that shall be paid them for the use of the said works; and if the said overseer shall refuse or neglect to come down and look after the said negroes, according to the directions of the said commissioners, that then he shall forfeit the sum of three pounds current money, for each day he shall be absent; to be recovered by action of debt, by any of the said commissioners, for the uses and works aforesaid; and the said overseers shall be obliged to keep with the said negroes on Sundays; to prevent their caballing or rambling, on the like penalties; but in case the overseers aforesaid shall not do their duty, to the satisfaction of the said sole commissioner, it may be lawfull for him to discharge the said overseer, and to appoint another in his room, and to appoint overseers for such precincts or divisions as shall not send them to serve as aforesaid.

Negroes furnished to be ablebodied, under penalty.

XIII. *And whereas*, several persons obliged by this Act to send negroes, may send such as are not capable of any or very little service; *therefore he it enacted* by the authority aforesaid, That it shall and may be lawfull for the said sole commissioner, or any of the commissioners, to refuse such negro, and the person or persons so to send negroes, shall send some other good and serviceable negro or negroes in their room, and shall pay seven shillings and six pence per diem, for each day the said unserviceable negroes were employed, until they can be exchanged as aforesaid, to be applied to the use of the fortifications; and in case he shall refuse to send such negroes, he shall forfeit the sum of twenty pounds, for each negro so by him to be sent as aforesaid.

Provisions.

XIV. *And be it further enacted* by the authority aforesaid, That the said overseers shall cause to be delivered unto any of the commissioners of the works aforesaid, such provisions as shall be sent by the masters of any negroes sent to the said works; which provisions shall be, by such commissioner, lodged in a convenient store-house, hired for that purpose, and he shall cause the same to be, from time to time, delivered out to the said overseers, for the use of his gang of negroes.

XV. *And be it further enacted* by the authority aforesaid, That the said

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sole commissioner aforesaid shall provide several other places in and about Charles Town, for the lodging of the said negroes, and provide wood for the dressing of their victuals, if there prove not room sufficient in the gate house, or in any other place belonging to the public, for them. Lodging.

XVI. *And be it further enacted* by the authority aforesaid, That the owners of such negroes as shall be sent to the said works, shall send their said negroes by the tenth day of April next, under the like penalties, as if they refuse or neglect to do the same; and shall also send with each negro, either a good hoe, and axe or spade.

XVII. *And be it further enacted* by the authority aforesaid, That in case any master or owner of any negro sent to the said works, should have his negro killed or maimed in the said works, that then the said sole commissioner, or other commissioners appointed for the works mentioned in this Act, shall cause the said negro to be valued by three freeholders, upon their oaths, and certify such appraisement to the publick Receiver of this Province, who is hereby directed to pay the said sum so certified, to the owner or master of the said negro. Negroes killed or maimed, to be paid for.

XVIII. *And for the better securing Charles Town from fire; Be it enacted*, That all merchants and other persons, which keep powder to sell, shall put the same into the magazine in Charles Town, and shall pay to the powder receiver, for his care and trouble, of taking in and delivering out, and for the time it shall be there, be it more or less, two shillings for every barrel; and no person whatsoever, inhabitant of Charles Town, shall keep in any house in Charles Town, at one time, more than one quarter of a barrel of powder, under the penalty of ten pounds, for each month he shall keep in any house as aforesaid more than a quarter of a barrel as aforesaid; to be recovered by bill, plaint or information, in any Court of Record in this Province; one half thereof to the church-wardens of the Parish of Charles Town, for the use of the poor of the said Parish, and the other half to him or them that will inform and sue for the same. Powder, how to be kept.

XIX. *And be it further enacted*, That the said several commissioners shall lay a state of their accounts, and of all the moneys received, or ordered, or paid by them, by virtue of this Act, before the next Commons House of Assembly, and account for the same with a committee, that shall be appointed by the said House; and if it shall appear, upon the report of the said committee, to the said House, that any part of the said moneys so received was applied to any other use than is directed by this Act, such commissioner or commissioners shall forfeit treble the value of such sum; to be recovered of such commissioner or commissioners by action of debt, to be brought by the publick Receiver, in any Court of Record in this Province, for the use of the publick. Commissioners to account.

XX. *And whereas*, several persons lay claims to sundry lots upon the Bay, from high-water mark to low-water mark, by which means the persons that own the said front lots are discouraged in building their part of the front wall, by reason, that another person claims the lot before them, to low-water mark; therefore, for the preventing of all disputes relating to that matter, and that the same may be no hindrance to the building the front line, *Be it further enacted* by the authority aforesaid, That in case any person or persons whatsoever, hath any claim to any of the said lots, from high-water to low-water mark, that he or they shall, within twenty days after the ratification of this Act, appear before the commissioner of this Act, and signify to him, that he doth insist upon his claim and right to Certain Water lots.

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the said lot, from high-water to low-water mark, and that accordingly he will be at the charge of building the front wall, and filling up the said bank, of that lot or lots, before which his lot or lots so claimed lieth; and accordingly, the said commissioner, upon his building the said wall, and filling up the said bank, shall bring in his account of charges to the said person or persons that lay claims to such lot or lots, from high-water to low-water mark, and such person or persons shall be liable to pay the same, and to be recovered by the same ways and means as is given the said commissioner by this Act, to recover the same against the owner or owners of any front lot. But in case any person having right to any such lot or lots, doth neglect to lay claim thereunto, as before directed by this Act, that then such lot so neglected to be claimed as before directed by this Act, is hereby declared to be vested in the person or persons that have right to the front lot adjoining to the same, and in his or their heirs or assigns forever, he, the said person, owner of the said front lot, paying to the owner of the lot to the eastward from high-water to low-water mark, his full charges that he was at, for his grant for the same, and also allowing him over at the rate of seven shillings and six pence per foot, for every foot that the same eastwardly lot shall measure by the front line; *Provided*, That he the said person that layeth claim to any of the said eastwardly lots, make his demand for the same, of the owner of the front lot, within thirty days after the time elapsed by this Act, for his laying his claim before the commissioner, and engaging to pay the charges of the front wall, and filling up the bank.

No buildings
but wharves to
be built thereon

XXI. *And be it further enacted* by the authority aforesaid, That any person that hath right to any of the said lots, to the eastward of the said front line, from high-water to low-water mark, shall only have liberty of building of wharfs and bridges upon the same, and not any house, edifice or other buildings whatsoever, higher than the said bridge or wharf, on the penalty of the forfeiture of five hundred pounds, for every such building upon any of the said lots to the eastward of the said front line, higher than the said bridge or wharf, contrary to the true intent and meaning of this Act.

XXII. *And be it further enacted* by the authority aforesaid, That if the right or title of the front lot, and also of the lot to the eastward of the same, from high-water to low-water mark, now is, or hereafter shall become, vested in the same person, that the same shall not be again separated, but such person giving or selling such front lot, that the said lot to the eastward thereof, from high-water mark to low-water mark, shall go along with the front lot, as an appurtenance unto the same,

Tax may be
paid in Rice.

XXIII. *And whereas*, great complaints hath hitherto been made, by persons having occasion for moneys to pay in their tax, that they have been forced to give extravagant premiums for taking up moneys to discharge the same, or that they have been forced to sell their commodities for much less than what the price of commodities usually bore, by reason of persons taking advantage of their immediate necessities; *Be it therefore enacted* by the authority aforesaid, That all persons appointed to pay any tax in the month of May, one thousand seven hundred and nineteen, shall have liberty to pay in such their taxes unto Coll. Thomas Broughton, Coll. George Logan and Ralph Izard, Esqr. commissioners, now for that purpose appointed, either in publick orders made current in payment to them, by virtue of the tax Act, or in bills of credit, or else in good and

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merchantable Rice, (of which goodness, and market price, the commissioners aforesaid shall be sole judges,) at the then market price, for their taxes aforesaid, to be paid in May, one thousand seven hundred and nineteen, computing five score to the hundred, the weighing whereof shall be at the charge of the owner so paying the tax; and the said Rice shall be delivered to the said commissioners, at such place in Charles Town as they shall appoint, in good and merchantable barrels, (of which goodness the said commissioners shall be sole judges,) and the said commissioners shall allow the market price, for each barrel they receive in the said month of May, one thousand seven hundred and nineteen; and in case the said rice or barrels shall not be good and merchantable, in the opinion of the said commissioners, they shall refuse to receive the same, and the owner thereof shall be dealt with in all cases, as a defaulter not paying in his tax; and the said commissioners are hereby further impowered to dispose of what Rice shall be delivered to them in payment as aforesaid, as soon as conveniently may be, for the best price they can reasonably get, either in publick orders made current according to the directions of the Act commonly called the tax Act, or in bills of credit.

XXIV. And *whereas*, by reason of the tax being paid in Rice to the commissioners, which they by this Act are directed to sell at the best prices they can get, and with the money arising, to sink the orders; which Rice, if not sold for so much as received; there may many of the publick orders remain unpaid off and uncanceled, *Therefore be it enacted* by the authority aforesaid, That any such deficiency shall be provided for, by an assessment, to be added to the tax, and be assessed, and levyed, and paid by all such person or persons as have or shall pay in their tax in Rice, by an equal proportion on every respective person so paying the Rice, by means of whom the said deficiency shall happen or arise; which assessment shall be made the year insuing; and that the assessors shall receive from the commissioners for receiving the tax, an account of such deficiency, with the persons's names and sums deficient; which they the said assessors shall add to the tax of such persons, by means of whom this said deficiency shall or doth arise, to be levied after the same manner as is prescribed in the Act for raising a tax of seventy-five thousand pounds, on the estates of the inhabitants of this Province.

In case of deficiency, assessments to be made.

XXV. *And be it further enacted* by the authority aforesaid, That all such orders, which by means of the said deficiency in the tax, arising by the loss on the Rice paid in by persons for their proportion of this year's tax, shall remain unpaid, the said orders shall carry an interest of ten per cent, till paid off and discharged in the insuing year's tax.

Interest allowed on orders.

*Read three times and ratified in open Assembly,
the 20th day of March, 1718—9.*

ROBT. JOHNSON,
A. SKEEN,
THOS. BROUGHTON,
CHAS. HART,
FRANCIS YONGE.

A.D. 1720.

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No. 416. AN ADDITIONAL ACT TO AN ACT INTITULED "AN ADDITIONAL ACT TO THE ACT NOW IN FORCE, RELATING TO THE FORTIFICATIONS OF CHARLES TOWN."

Preamble. WHEREAS, the fortifications round Charlestown are out of repair, and are become thereby unserviceable, so that the said town remains very defenceless; and whereas, there is certain information that the Spaniards, in a short time, design to invade this settlement—

Fortifications
to be erected.

I. *Be it therefore enacted* by the Honorable James Moore, Esq., Governor, by and with the advice and consent of the Council and Representatives of all the inhabitants of this settlement, in South Carolina, That all and singular the inhabitants living within the town plat of Charlestown, do and shall, within three days from and after the ratification of this Act, begin to erect and build a strong and sufficient case or frame of the breadth of four feet, and of the height of four feet and an half, from the bastion commonly called Granville's bastion, in the curtain line, unto the bastion commonly called Craven's bastion, after such manner, form and likeness, as the frame or case already erected before the dwelling house of Capt. Taylor Hall, on the bay of Charlestown aforesaid; and such frame or case shall be erected and built at the equal charge and expence of each respective inhabitant living within the town plat of Charlestown, as aforesaid, to be rated and assessed on the said inhabitants in proportion to their respective taxes; and the said inquisitors and commissioners appointed for the present tax in Charlestown, are hereby authorized and required to make enquiry, and assess the said inhabitants accordingly.

Penalty on citizens not paying assessment.

II. *And be it further enacted*, That if any of the inhabitants aforesaid shall neglect or refuse to pay such sum or sums of money as he, she or they shall be assessed by the assessors hereinbefore appointed, that then and in such case, it shall and may be lawful for the commissioner or commissioners who shall hereafter be appointed to manage and take charge of the said work, to apply him or themselves to the chief justice of the court of common pleas for the time being, and desire him to issue out execution immediately, against the goods and chattels of the person so neglecting or refusing, which the said chief justice is hereby authorized and empowered to do; and the marshal of the said court is hereby empowered and required to expose to sale, such goods or chattels that shall be distrained or taken from such inhabitant, by virtue of such execution as aforesaid, at the public vendue; and shall pay so much of the moneys arising from the said sale, as the said inhabitant shall be assessed, unto the aforesaid commissioner or commissioners, and the overplus, (if any there be,) unto the owner of the said goods, first deducting his or their reasonable costs and charges, on account of the said vendue.

Slaves to
work.

III. And for the more effectual carrying on and repairing the fortifications in and about the said town, and throwing up intrenchments in proper places, *Be it enacted* by the authority aforesaid, That every parish in this settlement (excepting James's Island, Winyaw, and all to the northward of Edisto Island, and to the southward of Pon Pon river,) shall send down to Charlestown, on the seventh day of March, an able male working slave for every ten male working slaves, from the age of sixteen years to the age of sixty years, in the said parish; which slaves shall remain and continue to work in Charlestown aforesaid, for the space of thirty days, and no longer or the said person to send all his said slaves to

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work three days, as shall be returned, with provisions and tools sufficient for the space aforesaid; and the slaves, as before excepted, shall be ordered and appointed by the honorable the Governour, to make such fort or forts to the southward, as he shall think fit, with commissioners to see the same done effectually; and the owners of said slaves to be under the same penalties as those that are by this Act appointed to work in Charlestown; and in case any person or persons shall neglect or refuse to send down his or their slave or slaves, pursuant to the directions of this Act, then and in such case, such person or persons shall forfeit the sum of one pound two shillings and six pence for each male slave he, she or they shall be possessed of, from the age of sixteen to the age of sixty, to be recovered by the said commissioner or commissioners, by virtue of a warrant under his or their hands and seals, directed to any constable of the parish where the defaulter lives.

IV. *And be it further enacted*, That the curtain line shall be filled up, levelled and secured at the discretion of the said commissioner or commissioners, who are hereby impowered to employ the slaves so to be sent down as aforesaid, in filling up the aforesaid frame or case, and repairing the works on the back side of the town, and doing such other work, to put the town in a posture of defence, as to him or them shall seem meet.

V. *And be it further enacted*, That the slaves belonging to the inhabitants of James's Island, shall be employed by the commissioner for repairing of Johnson's fort, to work at the said fort, after such manner as is herein before directed.

VI. *And be it further enacted*, That the inquisitors in every parish within this settlement, do warn and summons the respective inhabitants of the said parishes to send down their slaves, according to the directions of this Act; and do return into the Secretary's office of this settlement, a list containing the number of the slaves each person ought to send.

VII. *And be it further enacted*, That the Governor for the time being, by and with the advice and consent of the Council, may, and he is hereby impowered to, appoint and agree with any proper person or persons, to be commissioner or commissioners for managing, overseeing and repairing the said work; which said commissioner or commissioners shall be invested with the same power given the sole commissioner, by an Act entituled "An additional Act to the Act now in force, relating to the fortifications in Charlestown." Commissioners

VIII. *And be it further enacted*, That Major Jonathan Drake, sole commissioner of Johnson's fort, be, and he is hereby, impowered to draw for the remaining part of the two thousand pounds which was appropriated for the said fort, which now remains in the hands of the bank commissioners, which said moneys he shall employ in finishing the said fort.

IX. *And be it further enacted*, That in case any master or owner of any slave sent to the works aforesaid, shall have his slave maimed or killed about the said works, he or she shall be satisfied and paid for the same, pursuant to the directions of the last herein before recited Act.

I assent to this Act this 13th day of February, A. D. 1720.

JA. MOORE.

A.D. 1734.

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No. 579. AN ACT FOR THE BETTER AND MORE CERTAIN REGULATING AND ADJUSTING THE METES AND BOUNDARIES OF QUEEN-STREET, FORMERLY CALLED DOCK-STREET, IN CHARLESTOWN; AND FOR APPROPRIATING SUCH WASTE OR VACANT LANDS AS SHALL BE FOUND ON THE NORTH SIDE OF THE SAID STREET.

Preamble.

WHEREAS, divers and sundry disputes have and do daily arise between the inhabitants of Charlestown, whose lands are situate upon and adjacent upon said Queen-street, formerly called Dock-street, through the uncertainty and irregularity thereof, by means whereof great mischiefs, law suits and contentions are likely to arise, to the great detriment of the said inhabitants; and the said street so being irregular, the ancient plan, model or form of the said town is hereby rendered not uniform or agreeable to the meteings, buttings and boundings laid down in and by the said model or plan; for the better and more perfect ascertaining and regulating the said Queen-street, formerly called Dock-street, for the future, and for the prevention of all and all manner of suits, quarrels and contentions among the inhabitants and parties interested, We pray your most sacred Majesty that it may be enacted,

The street formerly called Dock-street to be hereafter called Queen-street.

The runnings and course of the same.

I. *And be it enacted*, by and with the assent of his Excellency Robert Johnson, Esquire, Governour, by and with the advice and consent of his Majesty's honourable Council and Assembly of this Province, and by the authority of the same, That the said street, formerly known by the name of Dock-street, shall forever hereafter be called and known by the name of Queen-street, and run and remain in the manner following, that is to say, the said street at the North-east end or corner thereof next the Bay, shall be distant from the South-east corner of the dwelling house of Mr. Gillison Clapp, nigh the State House, nine chain and eighty-six links, and the said street shall, and is hereby ascertained to, run from the said North-east corner thereof next the Bay, (along the North side of the said street) in a straight line directly to the front or South side of the house in which Mrs. Hutcheson now dwells, and so to continue the same course to the street leading into town towards Mr. Brand's; and the course of the said street then to alter and run exactly parallel with Broad-street to Ashley river; and that the South side of the said Queen-street shall run parallel to the North side thereof, at the distance or breadth of thirty-three feet.

The said street so laid out, shall remain so forever.

II. *And be it further enacted* by the authority aforesaid, That the said street called Queen-street, so as aforesaid ascertained, regulated and laid down, shall so remain, continue and be from the time of the ratification hereof, and from thenceforth forever; any other or former survey, plan or model heretofore made, to the contrary thereof in any wise notwithstanding.

Commissioners and their powers.

III. And for the better, more perfect and plainer laying out, ascertaining and regulating the said street, and for the amoving the several and respective buildings and fences running from North to South, athwart or across the said street, so that nothing for the future may obstruct, hinder or impede the running of the said street from East to West, according to the exact course herein before particularly mentioned, *It is hereby further enacted* by the authority aforesaid, That from the ratification of this Act, the Honorable John Fenwicke and William Bull, Esquires, Wm. Waties, Esq., Othniel Beale, Esq., and Capt. Anthony Mathews, shall be, and they are hereby authorized and empowered to be, Commissioners, fully and

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effectually, to all intents and purposes, to cause the said street called Queen-street, to be laid out in manner and form aforesaid, and all and every buildings and fences thereon now built and placed to amove, cut down and carry away; and that any three or more of them, the said John Fenwicke, William Bull, William Waties, Othniel Beale, Esquires, and Captain Anthony Mathews, shall have full power, by themselves, servants or other persons by them to be employed, to lay out, ascertain, mete, adjust and regulate the said street, according to the true intent and meaning of this Act; they keeping an account in writing of their actings and transactions, in and about the ascertaining and regulating the said Queen-street, which they are hereby required to lay before the General Assembly of this Province, from time to time, as they shall be directed.

IV. *And be it further enacted*, That in case any action or actions at law or in equity, shall be brought against them, the said John Fenwicke, William Bull, William Waties, and Othniel Beale, Esquires, and Captain Anthony Mathews, any or either of them, for any matter, cause or thing whatsoever, that they or any or either of them, shall do or cause to be done, in and about the amoving, cutting down, and carrying away any of the said buildings, fences, pales or such obstructions now standing and being on the said Queen-street, or any pales, fences, buildings, or other obstructions, that may hereafter be erected or fixed up upon any part of the said street, that then and in such case, it shall and may be lawful to and for them the said John Fenwicke, William Bull, William Waties and Othniel Beale, Esquires, and Captain Anthony Mathews, any or either of them, to plead the general issue, and give this Act in evidence, which shall be a sufficient bar to any such action or suits, to all intents and purposes whatsoever; and the person or persons bringing, commencing or prosecuting such action or suit, shall pay treble costs; any law, usage or custom to the contrary notwithstanding.

This Act shall be a sufficient bar to any action against the said commissioners.

V. *And be it further enacted* by the authority aforesaid, That if upon the laying out and ascertaining the said Queen-street, in manner and form aforesaid, it shall appear that there is any vacant or waste land on the north side thereof, the said commissioners, or any three or more of them, shall cause the same to be admeasured, and an exact plat to be made thereof, in order to be laid before the General Assembly for the time being, to be by them disposed of and appropriated to such public uses as they from time to time shall think most proper.

Vacant land on the North side of said street to be disposed of by the General Assembly.

PAUL JENYS, *Speaker*.

In the Council Chamber the 9th April, 1734.

Assented to:

ROBERT JOHNSON.

AN ACT FOR PRESERVING THE FORTIFICATIONS, AND FOR APPROPRIATING CERTAIN SURPLUS LANDS IN CHARLES TOWN. No. 740.

WHEREAS, An Act of the General Assembly of this Province, entitled "An Act to prevent the breaking down and defacing the Fortifications in Charles Town," made and passed the fourth day of November, in the year of our Lord one thousand seven hundred and four, doth only extend and

Preamble.

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relate to the Fortifications of Charles Town then in being; and whereas, divers intrenchments, batterys and other works, have since been made and erected for the greater security of the said town. We therefore humbly pray his most sacred majesty that it may be enacted,

Act of 1704 ex-
tended.

I. *And be it enacted*, by his Excellency James Glen, Esqr. Governor-in-chief and Captain General, in and over his majesty's Province of South Carolina, by and with the advice and consent of his majesty's Honorable Council and the Commons House of Assembly of this Province, and by the authority of the same, That the said recited Act, and all the clauses, prohibitions, penalty's and forfeitures therein contained, shall extend, and at all times hereafter shall be construed to extend and relate, to all and singular the Entrenchments and Fortifications of Charles Town, as well to those now in being, as to such other works as shall hereafter be added thereto; excepting always, the fourth, sixth and eighth paragraphs of the said Act, which are hereby declared obsolete; and also, except such part of the seventh paragraph of the said Act as prohibits the keeping of cows and calves within the said intrenchments, which it is hereby declared lawful for any person to do.

Penalty for in-
juring the
moats, &c.

II. *And be it further enacted* by the authority aforesaid, That from and after the passing of this Act, if any white person or persons shall presume to throw, or cause any dirt, rubbish or filth, to be thrown into any of the ditches or moats lately made for the defence of Charles Town, every such person so offending shall be obliged to remove the same out again, and shall also forfeit and pay the sum of thirty shillings for every such offence, to be recovered as is directed by the Act for the trial of small and mean causes, the one half to the informer, and the other half to the use of the poor of St. Philip's Parish; and in case any slave commits the said offence, he or she shall be whipt not exceeding twenty lashes, by the direction of any of the commissioners of the Fortifications; unless the owner of such slave will redeem the said punishment by paying the said fine of thirty shillings, to be applied as is above mentioned.

Goats and
Swine.

III. *And be it further enacted* by the authority aforesaid, That from and after twenty days from the passing of this Act, all such goats and swine as shall be found running at large in Charles Town, shall be forfeited to the use of the poor of St. Philip's parish; and the commissioners of the Fortifications for the time being are hereby directed and impowered to cause such goats and swine to be killed and distributed among the said poor, or some of them, at their discretion.

Vacant land
disposed of.

IV. And whereas, by a certain plat of re-survey of part of the said Town, made and certified by George Hunter, Esqr. Surveyor General, by direction of the present commissioners of the Fortifications, pursuant to the Resolution of the Commons House of Assembly, on the fourteenth day of March last, it appears that divers quantitys of vacant or surplus land lie between Queen street and the northern boundary of the said Town. *Be it therefore enacted* by the authority aforesaid, That the ditch and rampart lately made from King street to Archdale street, be taken and deemed as part of the said vacant or surplus lands, which is hereby vested in his majesty, his heirs and successors, for the use of the public of this Province.

Town plat to
be recorded.

V. And whereas, by reason of the loss of the original plat or model of the said town, and by means of sundry erroneous surveys and plats thereof, divers errors have been committed by the owners and possessors of town lots near the aforesaid streets, in meteing out and fixing the boundaries of

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their respective lots; *it is hereby further enacted* by the authority aforesaid, That the plat of re-survey, so made and certified as aforesaid, shall be and remain of record in the Secretary's office of this Province, to the intent that all persons concerned may have recourse thereto.

VI. And, for the more especial benefit and direction of all persons having right or title to lots or lands not yet meted out or ascertained, *Be it further enacted* by the authority aforesaid, That the boundaries of the several lots within the said re-survey, shall always hereafter be held and taken as the same is described and laid down in the said plat, and not otherwise. And the several partition fences shall be moved by the commissioners of fortifications, and placed according to the said survey. And to be decisive.

VII. And whereas, the lots numbered one hundred and fifty-five, and one hundred and fifty-seven, are divided lengthwise by the said works, and by a street left sixteen feet in width on the north side of the ditch running from Archdale street to King street, so that only forty-three feet front on King street, and forty three feet front on Archdale street, remains of the said lots, within the said works, and fifty four feet front on King street and fifty four feet front on Archdale street, without the said works; *Be it therefore enacted* by the authority aforesaid, That the said street sixteen feet wide along the said ditch from Archdale street to King street, is hereby established and declared to be a public street in the said town; and the owners of the said two lots shall have such a recompense paid them by the commissioners of fortifications, out of the fortification fund, for the damage they sustain by the dividing the said lots as aforesaid, as shall be agreed upon and certified in writing under their hands, by any two indifferent persons, one to be named by the said commissioners, and one by the owners of the said lots, and if they cannot agree thereon, then they shall choose an umpire to decide the same. Two certain lots.

VIII. And whereas, the quantity of two acres, one rood and one perch of land, lying to the north-west of the ditch, between the two westernmost bastions and the town line, is by the said works cut off from any convenient communication with the town, and thereby rendered of little service to the proprietors; and as there is no place allotted for a negro burying-ground, *Be it further enacted* by the authority aforesaid, That the same be, and is hereby, allotted for a negro burying-ground for ever. And a convenient passage to the said negro burying-ground shall be laid out through the glebe land, by the commissioners of fortifications. And the owners of the said land hereby allotted for a negro burying-ground, shall have satisfaction made to them out of the fortification fund. And the same shall be valued by two indifferent persons, one to be named by the said owners, and the other by the said commissioners as aforesaid; and in case of their not agreeing, then by an umpire, as aforesaid. Negro burying ground.

IX. And whereas, heretofore (that is to say) on or about the eighth day of October, in the year of our Lord one thousand six hundred and ninety-eight, there was granted unto James Moore, Esqr. his heirs and assigns, thirty-four acres, two roods and twenty perches of land, and is said to be situate on Charles Town Neck, and bounding north on Cumings's land, west on Ashley River, east and south on Charles Town, within which boundaries are situate four lots of Land, known by the numbers ninety-four, one hundred, one hundred and fourteen, and one hundred and twenty-nine, commonly called Hobson's four lots, and which four lots, the quantity not being specified in the grant, are supposed to contain two acres. And whereas, it appears by the said plat and re-survey, that great part of the works hereinbefore mentioned, that is to say, from Archdale Compensation provided for certain lots.

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street to the marsh of Ashley river, runs through the said lands granted to the said James Moore, and the said lots granted to the said Hobson, as aforesaid, and by the west line of the said work, a slip of the said thirty-four acres of land along the marsh is cut off and become of little use to the owners thereof; *Be it further enacted* by the authority aforesaid, That the owners of the said thirty-four acres, two roods, and twenty perches of land, of the said four lots called Hobson's lots, shall have satisfaction made to them out of the fortification fund, for all the quantity of land which the land left within the said works shall fall short of the said thirty-four acres, two roods, and twenty perches of land contained in their original grant as aforesaid, and the same shall be valued by two indifferent persons, one to be named by the said owners, and the other by the said commissioners, as aforesaid; and in case of their not agreeing, then by an umpire, as aforesaid.

Lots No. 248
and 249.

X. And whereas, through mistaken admeasurement occasioned as aforesaid, two several town lots, distinguished respectively by the numbers two hundred and forty eight and two hundred and forty nine, have been inclosed and built upon by the owners of the adjacent lots, numbered three hundred, and three hundred and one, which said last mentioned lots are now almost wholly taken up by another part of the said ditch and rampart; *Be it therefore enacted* by the authority aforesaid, That the proprietors of the said two lots, two hundred and forty-eight, and two hundred and forty-nine, shall have compensation for the same, out of the produce of the sale of the said surplus land so as aforesaid found near Queen-street in Schinckling's Square, which surplus land is circumscribed by yellow lines in the plat of re-survey, by this Act directed to be and remain of record in the Secretary's office of this Province; and which said surplus land is hereby declared to be vested in, and to be and enure in pure and good fee simple, in the Honorable Lieutenant Governor, William Bull, Esqr. Othniel Beale, David Hext, Isaac Holmes and Isaac Mazyek, Esqrs. their heirs and assigns, in trust, that they, the said trustees, or any three or more of them, do, and they are hereby enabled and required, within eighteen months after the passing of this Act, to sell and convey, to the best bidder at public outcry, the said surplus land in Schenckling's Square aforesaid, which sale and conveyance shall be good and valid, according to the tenor of the same; and that the said trustees, out of the money arising from the said sale, do pay to the owners and proprietors of the said lots two hundred and forty-eight and two hundred and forty-nine, so taken up by the said ditch and rampart, the full value of their said lots; and if any surplus money shall remain after such payment, that then the said surplus money be placed in the hands of the Public Treasurer, to be applied as the General Assembly shall think proper; any law, usage or custom to the contrary notwithstanding; and upon such satisfaction made, the land whereon the said other part of the said ditch and rampart are made from Meeting House street to King street, are hereby declared vacant or surplus lands, and is vested in his Majesty, his heirs and successors, for the public use of this Province; *Provided always*, that nothing in this Act contained shall extend or be construed to bar or abridge any estate, right, title or interest whatsoever, of any person or persons, of, in or to any of the said lots or lands hereby declared vacant or surplus lands, and vested in his Majesty, so that such person or persons do make and prosecute his, her or their claim thereto, within five years next after the passing of this Act.

XI. *And be it further enacted* by the authority aforesaid, That if any

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person shall be sued for any matter or thing, by them done in pursuance of the direction of this Act, it shall and may be lawful to and for every such person to plead the general issue, and to give this Act and the special matter in evidence and if the plaintiff or plaintiff in such action or suit shall discontinue, or become non-suit, or a verdict shall pass against him or them, it shall and may be lawful for the court in which such action shall be brought, to tax and allow to every such defendant, his and their double costs of suit, for which the defendant shall have the like remedy as by law is given to other defendants.

General issue
may be plead-
ed.

WILLIAM BULL, Jun. *Speaker.**In the Council Chamber, the 17th day of June, 1746.**Assented to:*

JAMES GLEN.

AN ACT FOR DIVIDING THE PARISH OF ST. PHILIP, CHARLESTOWN, AND No. 795.
FOR ESTABLISHING ANOTHER PARISH IN THE SAID TOWN, BY THE NAME OF THE PARISH OF ST. MICHAEL; AND FOR APPOINTING COMMISSIONERS FOR THE BUILDING OF A CHURCH AND A PARSONAGE HOUSE IN THE SAID PARISH; AND APPOINTING ONE MEMBER MORE TO REPRESENT THE INHABITANTS OF THE SAID TOWN IN THE GENERAL ASSEMBLY OF THIS PROVINCE; AND FOR ASCERTAINING THE NUMBER OF MEMBERS TO REPRESENT THE INHABITANTS OF THE SAID PARISHES, RESPECTIVELY, IN THE SAID ASSEMBLY; AND PROVIDING AN ADDITION TO THE SALARY OF THE PRESENT RECTOR OF THE PARISH OF ST. PHILIP, DURING HIS INCUMBENCY.

WHEREAS, the inhabitants of the parish of St. Philip, Charlestown, are become so numerous (and being daily increasing) that it is absolutely necessary to divide the said parish; and the present church being insufficient for accommodating the said inhabitants, many familys (professors of the church of England) in the said town, are deprived of the benefit of attending at divine service, for want of seats in the said church; for remedying which evil, we humbly pray his most sacred Majesty that it may be enacted,

Preamble.

I. *And be it enacted*, by his Excellency James Glen, Esquire, Governor-in-chief and Captain General in and over the Province of South Carolina, by and with the advice and consent of his Majesty's Honorable Council and the Assembly of the said Province, and by the authority of the same, That the parish of St. Philip, Charlestown, shall be divided in the following manner, (that is to say :) All that part of Charlestown situate and being to the southward of the middle of Broad-street, in the said town, shall be, and is hereby declared to be, a distinct parish by itself, separate from the other part of the parish of St. Philip, and shall hereafter be called and known by the name of the parish of Saint Michael; any thing contained in the Act passed the thirtieth day of November, one thousand seven hundred and six, entitled "An Act for the establishment of religious worship in this Province, according to the church of England, and for the erecting

St. Philip's
divided.

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of churches for the public worship of God, and also for the maintenance of ministers, and the building convenient houses for them," notwithstanding.

Parish church
of St. Michael,
&c.

II. *And be it further enacted* by the authority aforesaid, That the church of the said parish of St. Michael shall be built on or near the place where the old church of the parish of St. Philip, Charlestown, formerly stood; and the parsonage house of the said parish shall be built on that part of the old church yard which is fronting Meeting-street, and next adjoining the land belonging to the heirs of John Wright, deceased, in such manner as the commissioners hereinafter named, or the major part of them, shall order, direct and appoint; and the inhabitants of the said parish of St. Michael shall and may have and enjoy all the rights, privileges and immunities that the inhabitants of the parish of Prince William, and the parish of St. Peter, or of any other parish in this Province, doth or can have, hold or enjoy, by any law, usage or custom whatever.

Rector of said
church.

III. *And be it also enacted*, That the rector or minister of the said parish of Saint Michael, shall be elected and chosen in the same manner as the rectors or ministers of the several other parishes in this Province are elected and chosen, and shall have yearly paid him the sum of one hundred and fifty pounds, proclamation money, as a salary, out of the fund appropriated, or to be appropriated, for payment of the salaries of the clergy in this Province; and the public treasurer of this Province for the time being is hereby authorized, impowered and required, to pay the same, under the like penaltys and forfeitures as for not paying the salaries due to the other rectors and ministers of the several other parishes in this Province; and the said rector or minister of the parish of Saint Michael shall have and enjoy all and every such privileges and advantages, and shall also be under such rules, laws and restrictions, as the rectors or ministers of the other parishes in this Province have and enjoy, or are subject and liable unto.

Comrs. for
building the
church, &c.

IV. *And be it also enacted* by the authority aforesaid, That the Honorable Charles Pinckney, Alexander Vander Bussen, Edward Fenwicke, Wm. Bull, Junior, Esquires, Andrew Rutledge, Isaac Mazyck, Benjamin Smith, Jordan Roche and James Irving, Esquires, be, and they are hereby appointed, commissioners or supervisors for the building of the church and pews and the parsonage house in the said parish of Saint Michael; and they, or the major part of them, are hereby fully authorized and impowered to take subscriptions, and to receive, gather, collect and sue for all such sum and sums of money as any pious and well disposed person or persons shall give and contribute for the purposes aforesaid; and in case of the death, absence or refusing to act, of any of the said commissioners, the Governor or Commander-in-chief for the time being shall and may nominate and appoint another person or persons to be commissioner or commissioners, in the room or place of such so dead, absent or refusing to act, as to him shall seem meet; and the person or persons so to be nominated and appointed, shall have the same powers and authority for putting this Act in execution, to all intents and purposes, as the commissioners herein named.

Their powers
and duties.

V. *And be it further enacted* by the authority aforesaid, That the said commissioners or supervisors, or the major part of them, with the moneys to be collected by the contributions as aforesaid, and in case such contributions shall not be sufficient, then with the moneys hereinafter provided for that purpose, shall have power, and they are hereby authorized, impowered and required, within two years from the time of passing this Act, or as soon after as conveniently may be, to build the said church, with a

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steeple to the same, and also to procure a ring of bells, of such number, weight and bigness as they shall think fitting, and also to build the said parsonage house.

VI. *And be it also enacted* by the authority aforesaid, That in case the said contributions shall not be sufficient to defray the expence of building and finishing the said church and parsonage house, then there shall be paid out of the public treasury of this Province, (to wit,) of the moneys arising by the duties imposed or hereafter to be imposed upon goods, wares and merchandize imported from his Majesty's plantations or colonys in America, and upon goods, wares and merchandize exported from this Province, the sum of one thousand and seven hundred pounds, current money, per annum, until the whole expence of building and finishing the said church, steeple, and parsonage house, and ring of bells, shall be fully satisfied and discharged: *Provided always nevertheless*, that the said money, so to be annually paid out of the public treasury for the purposes aforesaid, shall not in the whole exceed the sum of seventeen thousand pounds.

Appropriation.

VII. And to the intent that so pious and necessary a work may not be retarded, *Be it further enacted* by the authority aforesaid, That for a supply of moneys, if needful, for carrying on the said buildings, the said commissioners, or the major part of them, shall, from time to time, as the occasion may require, make application to his Excellency the Governor, or the Commander-in-chief for the time being, who is hereby desired and empowered, upon such application, with the advice of council, to issue his warrant upon the public treasurer for the time being, for the payment of so much money to the said commissioners as may be wanted, until the said sum of seventeen thousand pounds shall be fully paid out; with directions in the said warrants respectively, that if there shall be no moneys in the treasury of the fund hereby appropriated to answer such warrant, and any person or persons shall be willing to supply any materials for, or to do the workmanship of the said buildings, and be content to wait for payment till the said fund shall be in cash to discharge the same, then and in such case the said public treasurer shall give a certificate or certificates to the person or persons employed by the said commissioners, or furnishing any materials for the said buildings, for the sum or sums to them respectively due, or for so much thereof as the said person or persons shall require, (but not for less than ten pounds in one certificate;) and the said treasurer, from time to time, as soon as any moneys of the duties hereby appropriated shall come into his hands, shall, and he is hereby enjoined and required to, give public notice thereof by advertisements posted up in the most conspicuous places in Charlestown, and requiring the persons possessed of such certificates to bring in the same to be paid off and discharged; and the said treasurer shall forthwith cancel the said certificates.

VIII. *And be it further enacted* by the authority aforesaid, That the said sum of one thousand and seven hundred pounds per annum, to be paid out of the public treasury as aforesaid, shall be employed, made use of, and expended in building and finishing the said church, steeple and parsonage house, and procuring a ring of bells, as aforesaid, and to and for no other use or uses whatsoever.

IX. *And be it enacted* by the authority aforesaid, That the pews in the said church shall be erected by the direction and appointment of the said commissioners, or the major part of them; and that a commodious pew be set up therein for the use of the Governor or Commander-in-chief and the Council for the time being, and likewise two large pews for the members

The pews.

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of the Assembly, and one other large pew for strangers who shall go to the said church, in such places and of such dimensions as the said commissioners, or the major part of them, shall think fit; and that the other pews, which are hereby required to be made as equal in space as can be, shall be disposed of in the manner following, (that is to say,) the persons who shall have contributed most toward the building of the said church shall be intitled to and have the first choice of the pews in the same, and in cases where it shall happen that several persons have contributed alike, such persons shall draw lots for the choice.

Pews to be
leased.

X. *And be it further enacted* by the authority aforesaid, That the said commissioners, or the major part of them, shall be, and they are hereby, fully authorized and empowered, by an instrument in writing, to be drawn up and executed for that purpose, to lease, set or let the said pews to the said persons respectively, their several and respective executors, administrators and assigns, for and during the term of ninety-nine years, which the said persons, their executors, administrators and assigns, shall and may lawfully possess, occupy and enjoy accordingly, provided they pay such rent for the said pews as the said commissioners shall think reasonable to reserve thereon; and the said commissioners, or the major part of them, are hereby empowered to ascertain the rent to be paid for the said pews respectively, according to their situation; *provided*, that the rent for any one pew shall not exceed the sum of twenty shillings proclamation money, per annum, which rent shall be paid annually to the church-wardens and vestry of the said parish of Saint Michael, for the time being, and shall be, and is hereby, applied for and towards keeping the said church in repair, and ornamenting the same, in such manner as the church-wardens and vestry of the said parish shall from time to time direct and appoint.

XI. *And be it further enacted* by the authority aforesaid, That at the end and expiration of the said term of ninety-nine years, it shall and may be lawful to and for the church-wardens and vestry of the said parish of Saint Michael, for the time being, to lease, set or let the said pews, to such persons, for such term, not exceeding ten years, and under such rent, as they shall think fit: *Provided always*, that the persons in possession, being descendants or assignees of the original lessee of the said pews, at the end of the said term, shall have the preference of a renewal of the like term of ninety-nine years, at the rent reserved by the original lease, upon paying a fine of five pounds proclamation money, for the use of the said church, as aforesaid.

May be sold for
failure to pay
rent.

XII. *And be it also enacted*, That in case any lessee or lessees of any pew or pews in the said church, his, her, or their executors, administrators, or assigns, shall neglect or refuse to pay such rent for the same as shall be reserved thereon, by the space of nine months after such rent shall become due, and actual notice thereof given by the church-wardens, then it shall and may be lawful for the said church-wardens and vestry for the time being, to sell and dispose of the remainder of the term unexpired of such lease or leases, to any other person or persons willing to purchase the same and pay the rent reserved thereon; and the moneys arising by the sale of such lease or leases, shall be, and is hereby, applied to the use of the said church, in manner aforesaid.

XIII. *And be it further enacted* by the authority aforesaid, That no person whosoever, owning or having the possession of a pew in the Church of St. Philip, Charles Town, shall be permitted to have a pew in the Church of St. Michael's parish, unless such person shall be owner of a house in

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each parish, until he or she shall have disposed of such pew in the Church of St. Philip; any thing hereinbefore contained to the contrary notwithstanding.

XIV. *And be it further enacted* by the authority aforesaid, That it shall and may be lawful for the inhabitants of either of the said parishes to bury their dead in the church-yard of the other parish; any usage or custom to the contrary notwithstanding.

XV. *And be it also enacted*, That the poor of the parish of St. Philip, Charles Town, and the poor of the parish of St. Michael, shall be maintained and supported jointly, at the expense of the inhabitants of both the said parishes; and that all donations which have been heretofore given for the use of the poor of the parish of St. Philip, Charles Town, shall be, and are hereby, applied to the use of the poor of both parishes, in the same manner as hath been heretofore used; and that the church wardens and vestry of the parish of St. Philip, Charles Town, shall have power, and they are hereby fully authorized and impowered, to rate, assess, collect and levy all such sum and sums of money as shall from time to time be wanted, for defraying the expense of maintaining and supporting the poor of the said parishes, as well upon the inhabitants of the parish of St. Michael, as upon the inhabitants of the parish of St. Philip, equally and impartially, and in like manner as they have heretofore done.

XVI. And to prevent any disputes that may hereafter happen or arise between the said parishes, concerning the choosing and sending their Representatives to the General Assembly of this Province, *Be it enacted* by the authority aforesaid, That after the said church shall be built, and a minister settled in and for the said parish of St. Michael, the inhabitants of the said parish of St. Philip shall choose and send three members of Assembly, and no more, and the inhabitants of the said parish of St. Michael shall choose and send three members of Assembly, and no more; any thing contained in the Act entitled "An Act to ascertain the manner and form of electing members to represent the inhabitants of this Province, in the Commons House of Assembly, and to appoint who shall be deemed and adjudged capable of choosing or being chosen members of the said House," to the contrary thereof in any wise notwithstanding; and that writs for the electing of members to serve in the General Assembly for each of the said parishes, shall be issued in the same manner and at the same times as for the several other parishes in this Province, pursuant to the directions of the said recited Act.

XVII. And forasmuch as the dividing of the parish of St. Philip, Charles Town, will at present be some diminution of the perquisites of the Reverend Mr. Alexander Garden, the present rector of the said parish; *Be it therefore enacted* by the authority aforesaid, That the said Mr. Alexander Garden, the present rector of the said parish, so long as he shall continue to officiate, and no longer, and to none other, shall be allowed and paid (from and immediately after a minister shall be appointed for and perform divine service in the church of the parish of St. Michael) the sum of forty pounds proclamation money, over and above his present salary, as a recompence for such diminution of his perquisites; which sum, the public treasurer for the time being, is hereby required to pay, out of the same fund and in like manner as the salaries to the other clergy in this Province are paid.

XVIII. And whereas, by reason of dividing the parish St. Philip, Charles Town, disputes may arise concerning the execution of certain

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Former laws concerning the markets, streets, &c. to be of force, as if this Act had not been passed.

Acts of the General Assembly, which have been heretofore passed, providing several regulations (with respect to the markets, streets, high-roads and other matters,) for the convenience and benefit of the inhabitants of the said parish, and the port and harbor of the said Town. For prevention whereof, *It is hereby further enacted and declared*, That it is not the intention of this Act to abrogate or make any alteration in any of the said Act or Acts, other than in such instances as are herein particularly mentioned and expressed. But that all and every such Act and Acts should operate and take effect, to all intents, constructions and purposes whatsoever, in the same manner as if this Act had never been made; any thing hereinbefore contained notwithstanding.

Commissioners to account.

XIX. *And be it further enacted* by the authority aforesaid, That the said commissioners shall be, and they are hereby, required to lay a full, true and perfect account of all their receipts, collections, payments and disbursements, for and concerning the said church and parsonage house, before the General Assembly, as often as they shall be thereunto required by the Governor or Commander-in-chief for the time being, or either House of Assembly

ANDREW RUTLEDGE, *Speaker.*

In the Council Chamber, the 14th day of June, 1751.

Assented to: JAMES GLEN.

No. 880.

AN ACT TO IMPOWER THE COMMISSIONERS FOR BUILDING A CHURCH AND PARSONAGE IN THE PARISH OF ST. MICHAEL, CHARLES TOWN, TO PURCHASE A LOT OF LAND AND HOUSE FOR A PARSONAGE FOR THE SAID PARISH; AND TO DISPOSE OF AND CONVEY IN FEE SIMPLE, SUCH PEWS AS SHALL BE BUILT IN THE SAID CHURCH; AND FOR REPEALING SEVERAL PARAGRAPHS OF THE ACT OF THE GENERAL ASSEMBLY OF THIS PROVINCE FOR DIVIDING THE PARISH OF ST. PHILIP, AND FOR ERECTING THE SAID PARISH OF ST. MICHAEL, AND A PARSONAGE FOR THE SAME.

Preamble.

WHEREAS, the ground allotted for the building of the Parsonage House of the Parish of St. Michael, by an Act of the General Assembly of this Province, entitled "An Act for dividing the Parish of St. Philip, Charles Town, and for establishing another Parish in the said Town, by the name of the Parish of St. Michael; and for appointing commissioners for the building of a Church and a Parsonage house in the said Parish; and appointing one member more to represent the inhabitants of the said Town in the General Assembly of this Province; and for ascertaining the number of members to represent the inhabitants of the said Parishes respectively in the said Assembly; and providing an addition to the salary of the present rector of the Parish of St. Philip, during his incumbency," if taken from the church-yard of St. Michael's Parish, as the said Act directs, would render the said church-yard too small and confined; we therefore humbly pray his most sacred Majesty that it may be enacted,

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I. *And be it enacted*, by his Excellency, William Henry Lyttleton, Esq. Captain General and Governor-in-chief, in and over the Province of South Carolina, by and with the advice and consent of his Majesty's Council, and the Commons House of Assembly of the said Province, and by the authority of the same, That it shall and may be lawful, at any time within two years after the passing of this Act, for the said commissioners, or the majority of them, to purchase a lot of land and house for a Parsonage for the said Parish of St. Michael, and to receive and take a conveyance for the same, in trust for and to the uses aforesaid; which said lot of land and house, shall be paid for out of the monies appropriated for building the parsonage-house in the Parish of St. Michael; and when purchased as aforesaid, shall be, and is hereby declared to all intents and purposes to be, the parsonage land and house of the said Parish of St. Michael; any law, usage or custom to the contrary notwithstanding.

Commissioners
authorized to
purchase land
for a parson-
age, &c.

II. And whereas, many persons have declined subscribing to the building of the said Parish Church of St. Michael, because the pews which they are to have in consequence of their subscribing, are not upon a footing with the pews in all other Parish Churches in this Province, but are directed by the said Act to be let on leases for ninety-nine years; *Be it therefore enacted* by the authority aforesaid, That it shall and may be lawful for the said commissioners, or the majority of them, to convey the pews to be built in the said Parish Church of St. Michael, according to the directions of the said Act, to such persons as shall subscribe for the same, their heirs and assigns, forever; any thing in the said Act contained to the contrary notwithstanding.

Pews.

III *And be it further enacted* by the authority aforesaid, That such part of the second paragraph of the said Act of the General Assembly of the said Province, for dividing the said Parish of St. Philip, and erecting the said Parish of St. Michael, as relates to the building of the parsonage-house of the said Parish of St. Michael; and also, the tenth, eleventh, and twelfth paragraph of the said Act, be, and they are hereby declared, repealed and absolutely null and void, to all intents and purposes, from and immediately after the passing of this Act.

Certain sec-
tions of former
Act repealed.

B. SMITH, *Speaker.**In the Council Chamber, the 7th day of April, 1759.**Assented to:* WILLIAM HENRY LYTTLETON.

AN ACT FOR IMPOWERING THE COMMISSIONERS OF THE STREETS IN No. 954.
CHARLESTOWN, TO LAY OUT AND CONTINUE OLD CHURCH-STREET TO
GEORGE-STREET, IN ANSONBOROUGH; AND FOR BUILDING A BRIDGE
AND CAUSEY AT THE NORTH END OF THE BAY OF CHARLESTOWN.

WHEREAS, many of the inhabitants of Charlestown and Ansonborough, have, by their representation and petition, humbly set forth, that the continuation of the street which leadeth northwardly by St. Michael's church, and the Independant and Scotch Meetings, commonly called old Church-street, through some lands of private property, until it shall unite

Preamble.

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with that street laid out in Ansonborough called George-street, would be useful and ornamental to Charlestown, and is absolutely necessary for the use and convenience of persons who live in and about Ansonborough, and upon Charlestown Neck, and also very serviceable to travellers and others passing into and going out of the said town; *and whereas*, the opening the communication between the said town and Ansonborough, in the manner prayed for, appears reasonable and proper; We therefore pray his most sacred Majesty that it may be enacted,

Old Church-
street to be
continued, &c.

I. *And be it enacted*, by his Excellency the Right Honorable Lord Charles Greville Montagu, Captain-general, Governor and Commander-in-chief in and over the Province of South Carolina, by and with the advice and consent of his Majesty's Council, and the Commons House of Assembly of the said Province, and by the authority of the same, That from and immediately after the passing of this Act, the commissioners of the streets in Charlestown (lawfully appointed) for the time being, or a majority of them, are hereby fully authorized and empowered and enjoined and required, without delay, to lay out and continue, or cause to be laid out and continued, the street aforesaid, commonly called old Church-street, through the lands of any private person or persons whatsoever, until the same shall unite with George-street in Ansonborough aforesaid, any law or custom to the contrary notwithstanding; and the owner or owners of such lands as the said continued street shall run through, shall have such a recompence and allowance paid them for the loss of their said lands, (if any real loss shall be occasioned thereby,) by the inhabitants of the parishes of St. Philip and St. Michael, as shall be appraised on oath, and agreed upon, and certified in writing, under their hands and seals, by any four indifferent persons, freeholders, two to be named by the said commissioners on behalf of the public, and two by the owner or owners of the said lands, to be taken for the continuation of the street aforesaid; and if they cannot agree therein, then they, the said four persons, shall and may choose one proper person, being a freeholder, as an umpire to decide the same on oath, as aforesaid.

II. *And be it further enacted* by the authority aforesaid, That the said commissioners, or a majority of them, as aforesaid, in laying out and continuing the said street, as before directed, shall preserve the same width as the town plot allows to old Church-street, and shall order and direct such a course of the continuing lines of the said street to be run, until it unites with George-street aforesaid, as they in their discretion shall think proper; and shall have power and authority, and they are hereby required and directed, to cause to be removed all buildings, fences, walls, or other obstructions which shall be found in the said street, after they have fixed the continuation lines thereof to George-street aforesaid; and any expense that may attend the execution of the present power and directions to the said commissioners as aforesaid, in laying out the said lines and removing such obstructions, shall be paid for, in the same way and manner as the expense of keeping the streets clean in Charlestown, is annually paid for.

III. *And be it further enacted* by the authority aforesaid, That the land which shall be included in the said lines of the intended street to be laid out and continued as aforesaid, shall, from and immediately after the laying out the same, be vested in his Majesty, his heirs and successors, for the use of a public street, to all intents and purposes.

IV. *And whereas*, a substantial brick bridge and causey, to be cased on each side with brick or stone, and filled up with earth, of the width of

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twenty-two feet in the clear, with a sufficient and secure foot path, well posted in, on one side thereof, and having a proper brick arch under the same, is much wanted at the North end of the Bay of Charlestown, to lead over a creek near Craven's bastion, to the North parts of the said town, heretofore called Ansonborough; *Be it therefore enacted* by the authority aforesaid, That the said commissioners of the streets for the time being, or a majority of them, shall have full power and authority, and they are hereby directed and required, without delay, to contract and agree with some proper person or persons, on such terms as they shall think proper, for the building and compleating such a bridge as is above described, over the creek aforesaid; and the expense thereof shall be raised and paid, in the same way and manner as the expense of cleaning and keeping in good order the streets in Charlestown, is annually raised and paid; and if the said commissioners, or any of them, shall be sued for any thing by them done, in pursuance of the direction of this Act, it shall and may be lawful for him and them to plead the general issue, and give this Act and the special matter in evidence to the court or jury before whom such suit shall come; any law, usage or custom, to the contrary in any wise notwithstanding.

Bridge to be built,

P. MANIGAULT, *Speaker*.*In the Council Chamber, the 18th day of April, 1767.**Assented to:*

C. G. MONTAGU.

AN ACT TO APPOINT AND AUTHORIZE COMMISSIONERS TO CUT A CANAL FROM THE UPPER END OF BROAD-STREET INTO ASHLEY RIVER; AND TO RESERVE THE VACANT MARSH ON EACH SIDE OF THE SAID CANAL, FOR THE USE OF A COMMON FOR CHARLESTOWN; AND TO EMPOWER THE COMMISSIONERS OF THE STREETS IN CHARLESTOWN, TO REMOVE A CERTAIN NUISANCE IN THE STREET COMMONLY CALLED ALLEN'S-STREET. No. 965.

WHEREAS, many of the inhabitants of this Province, settled on Ashley river, and other parts to the southward of Charlestown, are often put under great inconvenience in transporting themselves and commodities from their respective settlements to Charlestown, for want of some convenient and safe landing place in Ashley river, whereby they are frequently obliged to go round White Point in bad and boisterous weather, with very great risque and danger; *and whereas*, if a good navigable canal was to be cut from the west end of Broad-street, in a direct line to Ashley river, through the marsh, it would not only obviate the said inconveniences, but be of general utility to the inhabitants of Charlestown; We therefore humbly pray his most sacred Majesty that it may be enacted,

Preamble.

I. *And be it enacted*, by his Excellency the Right Honorable Lord Charles Greville Montagu, Captain-general, Governor, and Commander-in-chief in and over his Majesty's Province of South Carolina, by and with the advice and consent of his Majesty's Council, and the Commons

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Canal to be cut.

House of Assembly of the said Province, and by the authority of the same, That the commissioners hereinafter nominated and appointed, or the major part of them, shall, and they are hereby authorized, impowered and required, immediately, or as soon as conveniently may be after the passing of this Act, to cause to be cut a channel or canal, from the West end of Broad-street, in a direct line, to low water mark, on Ashley river, not exceeding twenty-five feet wide, and of a sufficient breadth at the end next to Broad-street, to receive two schooners, and of a sufficient depth to receive boats, canoes, pettiangers, schooners, or other vessels not drawing more than six feet water, and to cause good and substantial banks or causeys to be raised on both sides thereof, of such breadth, depth and height, and in such manner and proportion, as shall, by the said commissioners, or the major part of them, be thought necessary and convenient to answer the intended purposes of this Act.

Commissioners appointed.

II. *And be it further enacted* by the authority aforesaid, That the Honorable Henry Middleton, Esquire, Isaac Mazzyck, Rawlins Lowndes, Edward Fenwicke, William Henry Drayton, Arthur Middleton, Esquires, and Mr. William Savage, shall be, and are hereby nominated and appointed, commissioners, and they, or the major part of them, are hereby appointed a quorum, to put this Act, and every matter and thing therein contained, in execution; and the said commissioners, or the major part of them, are also authorized and impowered to collect and receive from the inhabitants of this Province, or others, such free gifts and voluntary contributions, as they, or any of them, shall from time to time think fit generously to make and bestow towards the charge of carrying on and finishing the said work.

Appropriation.

III. *And be it further enacted* by the authority aforesaid, That the said free gifts and voluntary contributions, to be made, bestowed, collected and received as aforesaid, together with the sum, not exceeding five thousand pounds currency, which the Commons House of Assembly have resolved to provide for that purpose, shall, by the said commissioners, or the major part of them, be laid out upon, applied to, and employed in the said work hereinbefore mentioned only, and for no other use, intent or purpose whatsoever; and that the said commissioners, or the major part of them, shall keep distinct and fair accounts of all receipts and payments, in and concerning the said work, and immediately after finishing the same shall, and are hereby required to, lay a fair state of the said accounts before the General Assembly of this Province.

Land vested.

IV. *And be it further enacted* by the authority aforesaid, That the land through which the said canal shall pass, and on which the said banks or causey shall be raised, and what shall lie within the same, shall forever hereafter, to all intents and purposes whatsoever, be vested in his Majesty, his heirs and successors, for the use of this Province, and shall be deemed, taken, held and adjudged part of Broad-street in Charlestown, in as full and ample manner as if the same had been so laid out and continued at the beginning; any former survey, custom, plan or model, to the contrary hereof in any wise notwithstanding; *provided nevertheless*, that it shall not be lawful, on any pretence whatever, for any person or persons to ride on the said banks, or make use of any carriage whatsoever on the same, on pain of forfeiting, for every such offence, the sum of ten pounds currency, to be recovered in the same manner as penalties are recoverable by the street Act.

Penalty for injuring the banks.

V. *And be it further enacted* by the authority aforesaid, That all the vacant marsh land lying on each side of the said canal, hereby directed to

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be made, situate on the east side of Ashley river, within the limits of Charlestown, shall forever hereafter be reserved and kept for the use of a common for Charlestown; and any grant that may be made or obtained for the same, or any part thereof, is hereby declared to be absolutely null and void.

A Common established.

VI. *And be it further enacted* by the authority aforesaid, That in case of the death, refusal to act, or departing from this Province, of any of the commissioners herein before nominated and appointed, the remaining commissioners for the time being, or the major part of them, shall, and are hereby empowered to, appoint one or more commissioner or commissioners, who shall have like power and authority as is herein before granted, to fill up the place and stead of such commissioner or commissioners, so dying, refusing to act, or departing this Province, as aforesaid.

Vacancies, how to be filled.

VII. And whereas, by certain articles of agreement, made and executed the eleventh day of October, in the year of our Lord one thousand seven hundred and thirty-five, by and between John Allen, late of Charlestown, in the Province aforesaid, deceased, of the one part, and James Grome, also late of the said town and Province, deceased, of the other part; it appears that the said parties were then severally seized in their demesnes as of fee of and in certain pieces or parcels of two lots in Charlestown aforesaid, numbered in the general plan of the said town by the numbers two hundred and sixty-eight, and two hundred and sixty-nine, as also of other lots situate, lying and being contiguous respectively to the eastward and westward of their several and respective pieces or parcels of lots before mentioned and expressed. And being willing and desirous, as well for the mutual benefit and advantage of each other, and the advancing the value of their said respective lots and pieces of lots, as for the general convenience of the inhabitants of the said town and others, to lay out and leave open, between their several lots and pieces of lots, for ever, a street or lane, to be called by the name of Allen's street, to lead from Broad Street into Queen street, did mutually covenant, promise, grant, and agree, to and with each other of them, his heirs and assigns, for certain considerations therein mentioned, that they the said parties, their heirs and assigns, should and would, from time to time, and at all times thereafter, leave open and free for the use aforesaid, the street to be called Allen's street, containing in breadth from east to west, thirty feet of assize, and in length, from Broad street to Queen street, formerly called Dock street, four hundred and eighty-one feet of assize, that is to say;—that the said John Allen and James Grome, their heirs and assigns, and each of them, should and would leave open and free, as aforesaid, fifteen feet of assize in breadth from east to west, and four hundred and eighty-one feet of assize in length, from Broad street to Queen street, adjoining the lands of each other, and both taken together and making the street to be called Allen's street, as aforesaid, to be left and continued open and free; as by the said deed, recorded in the Secretary's office of this Province, doth appear. And in pursuance of the said agreement, the said street was accordingly laid open and established, for the uses, intents and purposes aforesaid, since which, a very manifest incroachment hath been made on the said street, in violation of the agreement as aforesaid, and to the great annoyance of the inhabitants of the said town, and others; *Be it therefore enacted* by the authority aforesaid, That the commissioners of the streets for the time being, or a majority of them, shall have full power and authority, and they are hereby directed and required, within three months after the passing of this Act,

Allen's street established.

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to take, or cause to be taken, down and removed all such obstructions or incroachments which may be found on Allen's street, as aforesaid, and to cause the same to be widened and laid open, according to the true intent and meaning of the agreement before mentioned.

The general
issue may be
pleaded, &c.

VIII. *And be it further enacted* by the authority aforesaid, That if any of the commissioners aforesaid shall be sued or prosecuted for any thing done in pursuance of the direction of this Act, it shall and may be lawful for them or either of them, to plead the general issue, and to give this Act and the special matter in evidence; and if the plaintiff or plaintiffs in such case shall become nonsuit, suffer a discontinuance, or a verdict shall pass against him or them, the defendant or defendants shall recover his and their treble costs of suit.

P. MANIGAULT, *Speaker.*

In the Council Chamber, the 12th day of April, 1768.

Assented to: C. G. MONTAGU.

No. 966. AN ACT FOR APPROPRIATING THE PRESENT WORK HOUSE FOR A PLACE OF CORRECTION; FOR BUILDING A POOR HOUSE AND HOSPITAL; FOR ESTABLISHING FURTHER REGULATIONS RESPECTING THE POOR; AND FOR APPOINTING A BURIAL GROUND FOR TRANSIENT PERSONS WHO SHALL HAPPEN TO DIE IN CHARLES TOWN.

Preamble.

WHEREAS, by an Act of the General Assembly of this Province, passed the ninth day of May, which was in the year of our Lord one thousand seven hundred and thirty-six, a certain sum of money was raised on the inhabitants and owners of land in Charles Town, for the building of a Work House and Hospital for the reception of the poor, and others therein mentioned; which building was accordingly erected, and hath been applied to that use for several years past. But by reason of the great increase of the poor of the said Town, the said building is not now sufficient to contain the poor alone, exclusive of the numbers of fugitive seamen, slaves and others, daily committed there by virtue of several laws passed since the Act above recited; by which means it is now become absolutely necessary to have a new Poor House built, as well the better to accommodate the said poor, both settled and transient, as far as may be, and to relieve them from the company and noise of disorderly offenders, with whom they have been obliged for many years last past to reside under the same roof, as to have a proper place to be wholly applied for the reception of runaway slaves and disorderly persons, directed by law to be detained and kept in such a place for the conveniency of the public; we therefore pray his most sacred Majesty that it may be enacted,

I. *And be it enacted* by his Excellency the Right Honorable Lord Charles Greville Montagu, Captain General, Governor and Commander-in-chief, in and over his Majesty's Province of South Carolina, by and with the advice and consent of his Majesty's Council and Commons House of Assembly of the said Province, and by the authority of the same, That from and immediately after the passing of this Act, the commissioners by law ap-

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pointed and established for the building an Exchange and Custom House in Charles Town, and the commissioners of the same for the time being, shall be, and they are hereby appointed, commissioners for building a new Poor House and Hospital, on any convenient part or spot of the four acres of ground belonging to the public in Charlestown, on part of which the present work house and brick barracks now stand, which they shall think proper; and they, the said commissioners, and the commissioners for the time being, are hereby authorized, directed and required, as soon as they conveniently can, after the passing of this Act, to agree with some proper person or persons for the erecting and building the same, according to the plan hereunto annexed, as near as may be, with the addition of cellars and garrets, of brick and such other substantial materials proper for such a building, and for enclosing the said ground with a substantial brick wall.

Poor House
and Hospital
to be built.

II. And that a proper fund may be established for the erecting the said house, *be it therefore enacted*, by the authority aforesaid, That the said commissioners, and the commissioners for the time being, or a majority of them, shall have power and authority, and they are hereby directed and required, to issue as many more certificates or public orders, chargeable on the same fund and similar to those already issued for the Exchange and Custom House, as they shall think proper: *Provided*, the same does not exceed in the whole the sum of ten thousand pounds in the amount of said certificates or orders to be so issued.

Fund provided.

III. *And be it further enacted*, by the authority aforesaid, that the Act of the General Assembly of this Province, (commonly called the additional duty law,) which imposes an additional duty on rum, wine, and other commodities therein mentioned, for establishing a fund for sinking the certificates and orders issued and to be issued on account of the said exchange and custom house, shall be continued until the income and profits of the said fund shall be sufficient to sink and discharge the orders and certificates to be issued for erecting the said poor house and hospital, and inclosing the same as aforesaid; and that the said commissioners, for the time being, or a majority of them, shall, in every respect, have the same powers and authorities, and pursue the same directions, in the issuing of the orders or certificates hereby directed for the erecting the said intended poor house, as by law they are authorized and directed to do in the issuing the certificates for the said Exchange and Custom House.

IV. *And be it further enacted* by the authority aforesaid, That when the said intended Poor House and Hospital shall be completely finished and inclosed, according to the directions of the said commissioners for the time being, or a majority of them, the said poor shall be placed therein, and managed according to the direction of the several laws in force concerning the poor; and the present work house shall be made use of only as a house of confinement and correction, and shall be kept for that use and purpose only; and all fugitive seamen, runaway slaves, vagrants and disorderly persons, bond or free, from henceforward shall be committed to and detained and punished in the said work house and house of correction, and otherwise dealt with as by law they ought, and under the inspection, care, authority and direction of such justices, parish and other officers, as the said last mentioned disorderly persons and fugitives are now dealt with and managed according to law.

Poor House,
&c., how to be
used.

V. *And Whereas*, by the laws now in force, a person that hath been resident in any Parish in this Province for three months, is to be held and esteemed a settler or inhabitant in the said Parish, and entitled to all the be-

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What shall be held a settlement.

nefits of the Parish poor of the said Province; which time of settlement is not only contrary to the laws of England, in such cases, but greatly inconvenient to the inhabitants of the several Parishes in this Province, and ought to be enlarged. *Be it therefore enacted* by the authority aforesaid, That from and immediately after the passing of this Act, no person shall be esteemed or held in law to be a settler or inhabitant of any Parish in this Province, so as to be entitled to the benefits provided by law for Parish poor, until such person hath been resident in such Parish for twelve months as a native, householder, sojourner, apprentice or servant, according to the proviso and true intent and meaning of the Act for the better relief of the poor of this Province; any law, usage or custom to the contrary, notwithstanding.

Burial ground established.

VI. And *whereas*, by the increase of inhabitants in, and resort of strangers and transient persons to, Charlestown, the church yards or burying grounds of the Parishes of Saint Philip and Saint Michael are now found to be insufficient for the interment of such persons as happen to die in the said Town, and it may be attended with dangerous consequences to the health of the inhabitants of the said Town, if some other proper place is not by law appointed for the above necessary purpose. *Be it therefore enacted* by the authority aforesaid, That part of the public land, near or adjoining to the old Barracks and Powder Magazine, which was anciently a burying ground or cemetery belonging to the Parish of Saint Philip, shall, from and after the passing of this Act, be appointed for and deemed and held to be a burying place for the interment of strangers and transient white persons; and that the corpse of any such person shall not hereafter be buried in either of the church yards of Saint Philip or Saint Michael, Charlestown, without special leave for that purpose is first obtained from the church wardens of each Parish respectively; and the church wardens and vestry of the Parish of Saint Philip are hereby authorized and required to cause the said burying ground hereby established for strangers and transient persons to be immediately inclosed and fenced in with good cedar posts and cypress boards, for the purposes aforesaid, the cost and expense of which shall be paid by the public of this Province; and the accustomed fees and perquisites of funerals, which shall arise from interments in the said ground so to be inclosed, shall belong and be paid, respectively, to the Rector, Register, Clerk and Sexton of the said Parish of Saint Philip.

P. MANIGAULT, *Speaker.**In the Council Chamber, the twelfth day of April, 1768.**Assented to:* C. G. MONTAGU.

[Plan of the buildings omitted.]

No. 985. AN ACT FOR LAYING OUT AND ESTABLISHING A PUBLIC STREET IN ANSONBURGH, AND THE PARTS ADJACENT THERETO.

Preamble.

WHEREAS, William Hopton, Peter Porcher, John Wragg, James Brisbane, Ann Watson and Alexander Mazyck, by their petition to the General Assembly, setting forth that they had agreed to give a street seventy feet wide, from the northernmost end of Scarborough street, westward, through their lands, into the broad road leading to Charlestown; but

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that part of the breadth of the said street, towards the said road, will run through the lands bought some years since of John Wragg, Esqr. for the public use; and therefore prayed that a law may be passed for appropriating such part of the said public land toward the said street; we therefore humbly pray his most sacred Majesty that it may be enacted,

I. *And be it enacted*, by the Honorable William Bull, Esq. Lieutenant Governor and Commander-in-chief, in and over his Majesty's Province of South Carolina, by and with the advice and consent of his Majesty's Council and the Commons House of Assembly of the said Province, and by the authority of the same, That within one month after the passing of this Act, the commissioners of the streets in Charleston, or the majority of them, shall cause the street delineated and described in the plan hereunto annexed, to be laid out, according to the size, shape, form and dimensions therein represented, and in every respect agreeable thereto; and that the said street, which shall be called Boundary street, shall forever thereafter remain an open and public street.

Boundary street established.

P. MANIGAULT, *Speaker.**In the Council Chamber, the 23d day of August, 1769.**Assented to:* WILLIAM BULL.

[Plat omitted.]

AN ACT FOR LAYING OUT AND ESTABLISHING SEVERAL NEW STREETS No. 991,
IN THE NORTH-WEST PARTS OF CHARLESTOWN; AND FOR BUILDING
A NEW PARSONAGE HOUSE FOR THE PARISH OF SAINT PHILIP,
CHARLESTOWN; AND FOR EMPOWERING THE VESTRY AND CHURCH-
WARDENS OF THE SAID PARISH, FOR THE TIME BEING, TO LAY OUT
PART OF THE GLEBE LAND OF THE SAID PARISH, IN LOTS, AND TO
LET THE SAME OUT ON BUILDING LEASES; AND FOR OTHER PURPOSES
THEREIN MENTIONED.

WHEREAS, the laying out commodious streets on the lands in the north-west part of Charlestown, commonly called Coming's Point, and parts adjacent thereto, and enlarging the communication between that and other parts of the said town, by continuing such streets in the manner hereinafter directed, will be useful and ornamental to the said town, and of particular benefit and advantage to the proprietors of the said land called Coming's point, and other lands adjacent thereto, who have, by their petition to the General Assembly, prayed that the same may be done. We therefore humbly pray his most sacred Majesty that it may be enacted,

Preamble,

I. *And be it enacted*, by the Honorable William Bull, Esquire, Lieutenant-Governor and Commander-in-chief in and over his Majesty's Province of South Carolina, by and with the advice and consent of his Majesty's Council, and the Commons House of Assembly of the said Province, and by the authority of the same, That the proprietors of the land called Coming's point, and the lands adjacent thereto, shall, at their own expense, and under the inspection of the commissioners of the streets in Charleston, within nine months next after the passing of this Act, cause the several streets delineated and described in the plan hereunto annexed, to be admeasured and laid out, according to the size, shape, form and dimensions therein represented, and in every respect agreeable thereto; and that

Certain streets established.

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the said streets shall, forever thereafter, be and remain open and public streets.

Compensation
to P. Hinds.

II. And *whereas*, some part of Beaufain-street, as represented in the said plan, will, by the continuation thereof to the Broad road, intersect and take in several houses, on the lot of Mr. Patrick Hinds, and be otherwise prejudicial to him; *Be it therefore enacted* by the authority aforesaid, That the said Patrick Hinds, his heirs and assigns, shall have a compensation and allowance for the damages which he shall sustain by the running of the said street through his land and houses, to be paid to him by the owners of all the lands bounding on the said Beaufain-street, according to the benefit that they severally will receive thereby, (except the glebe land of the parish of St. Philip, Charlestown, from which great part of several of the streets are taken, chiefly to accommodate the owners of the other lands,) to be appraised, on oath, and agreed upon and certified, in writing, under their hands and seals, by any four indifferent persons, freeholders, two to be named by the commissioners of the streets, in Charlestown, on behalf of the owners of the lots of land bounding on the said street, and two by the said Patrick Hinds, his heirs or assigns: and if they cannot agree therein, then they, the said four persons, shall and may choose one proper person, being a freeholder, as an umpire to decide the same, on oath, as aforesaid.

To be raised
by assessment.

III. *And be it further enacted* by the authority aforesaid, That as soon as the persons so to be chosen for appraising and ascertaining the damages to be done to the said Patrick Hinds, his heirs and assigns, by the continuation of Beaufain-street to the Broad road, shall have finished the same, that then the commissioners of the streets shall assess the several owners of the lands bounding on the said street, according to the benefit they severally will receive thereby; and the several persons so assessed by the commissioners, for the payment of the damages to be done to the said Patrick Hinds, his heirs and assigns, as aforesaid, shall pay the sum of money so assessed on them respectively, within three months from the date of the assessment.

Land vested.

IV. *And be it further enacted* by the authority aforesaid, That such part of the said land, called Coming's point, on which a small part of the western wing of the new barracks now stands, as appears by the annexed plan, shall be, and the same is hereby, vested in his Majesty, and his successors, for the use of the public of this Province; and that the land belonging to the public, which, according to the said plan, is included in Coming's-street, shall be and remain as part of the said street, forever.

Defaulters to
be levied on,
&c.

V. *And be it further enacted* by the authority aforesaid, That when the commissioners of the streets in Charlestown, or a majority of them, shall have made the assessment on the several owners of the lands bounding on Beaufain-street, as aforesaid, they shall, within ten days thereafter, give notice thereof to the person or persons owning or claiming lands as aforesaid; and if such person or persons shall refuse or neglect, by the space of three months from the date of such assessment, to pay to the said commissioners, or such persons as they, or a majority of them, shall appoint to receive the same, their several assessments, as aforesaid made, it shall and may be lawful to and for the said commissioners, or a majority of them, and they are hereby obliged and required, to issue a warrant or warrants of distress, under their hands and seals, directed to any lawful constable of Charlestown, who is hereby authorized and required to execute the same, by levying on the goods and chattels of such person and persons as shall refuse or neglect, as aforesaid, all such sum and sums of money as they

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shall be so respectively assessed, together with the charges of such levying, which shall, in all respects, be the same as is allowed to constables levying executions for the general tax, on defaulters, and no more.

VI. And *whereas*, by the laying out the streets aforesaid, according to the annexed plan, a great part of the large and ancient glebe of St. Philip's parish, Charleston, may be divided and put into lots, which may be leased out to great advantage, for the benefit of the rector or minister for the time being of the said parish, and for other purposes herein mentioned, and will still leave a large and commodious piece or parcel of land for the habitation, use and occupation of the said rector or minister; and the present rector or minister, and the present vestry and church-wardens of the said parish, are desirous the same may be so done; but inasmuch, as by the laying out the said streets, the present parsonage will be much confined, and made too public and inconvenient, which will be remedied by building a new parsonage house on another part of the said glebe land—*Be it therefore enacted* by the authority aforesaid, That from and immediately after the passing of this Act, the vestry and church-wardens of the said parish of St. Philip, and their successors in office for the time being, or a majority of them, shall have power and authority, and they, or a majority of them, are hereby fully authorized, directed and required, to lay out a piece or parcel of the said glebe land, not exceeding four acres in quantity, bounding to the south on Wentworth-street, and to the eastward on St. Philip's-street, mentioned in the said plan, and to the north and west on other parts of the said glebe land, for the building and erecting a new parsonage house, and proper out-houses, and for the laying out of a garden, orchard and pasturage, for the habitation, use and occupation of the said rector or minister of the said parish of St. Philip for the time being; and that when the said piece or parcel of the glebe land is so laid out and retained, for the habitation and use of the said rector or minister, as aforesaid, that then the said vestry and church-wardens for the time being, or a majority of them, shall divide and lay out all the remaining parts of the said glebe, (except such part as is hereinafter particularly specified to be absolutely sold,) into such and so many lots, pieces or parcels of land, as they, in their discretion, shall think most proper and advantageous, to be let out by them on written leases, with reserved rents thereon, for the use of the said rector or minister for the time being, and such other use as is hereinafter declared concerning the same, for any term or time not exceeding thirty-one years; and that the said vestry and church-wardens for the time being, or a majority of them, shall forever hereafter have full power and authority to make and execute such lease or leases, with proper covenants, to be inserted therein, for the better improvement of the said lots of land, with buildings thereon, and for the more easy recovery of the rents to be reserved by the said lease or leases, and from time to time, after the expiration of the said leases, to renew the same; *provided* such renewed leases do reserve the same rent, or a greater rent, not exceeding as much again as the first rent reserved by the former lease, and do not exceed the said term of thirty-one years, and so on from time to time, forever hereafter, as such renewed leases shall expire; and that on every such renewal of the lease or leases of any of the said lands, the person or persons, lessee or lessees thereof, do pay a fine equal to two years rent reserved on such first made lease or leases, as a further consideration for the renewal of such lease or leases; *and provided*, that in all cases of renewed leases, forever hereafter, the original lessee or lessees of the said land, and their executors, administrators and assigns, shall always have the preference of such renewed leases.

Glebe land,
how to be
disposed of.

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*Acts relating to the City of Charleston.*Certain lots
disposed of.

VII. And *whereas*, in resurveying, laying out, and fixing the lines of the said ancient glebe land, belonging to the said parish of St. Philip, Charlestown, two small pieces, or slips of the same, are thrown to the westward of one of the new streets lately established, called Coming's-street, as more particularly appears by the annexed plan, which said small pieces or slips of land are thereby so detached from the other parts of the said glebe land, and are so inconveniently situated, that it is proper to sell the same absolutely, and to apply the monies arising thereby towards the expense of building the new parsonage house; *Be it therefore enacted* by the authority aforesaid, That within twelve months after the passing of this Act, the said vestry and church-wardens of St. Philip's parish for the time being, or a majority of them, shall have full power and authority to sell, and they are hereby directed and required to sell, release and convey, the said two small pieces or slips of land, to any person or persons, and his, her or their heirs and assigns, forever, who shall be minded to become a purchaser or purchasers thereof, either at public or private sale, as they shall think proper, and to apply the monies arising therefrom towards the building the said new parsonage house.

Appropriation,
by way of loan.

VIII. But inasmuch as the expense attending the building the said new parsonage house, and convenient out-houses thereto, will be great, and cannot be gone into without the aid and assistance of the General Assembly, usually given and lent for such parochial services, *Be it therefore enacted* by the authority aforesaid, That over and besides the monies which may arise by sale of the small slips or pieces of the glebe land hereinbefore directed to be sold, that the public treasurer do advance and pay, by way of loan, to the said vestry and church-wardens of St. Philip's parish, out of any public monies laying in the treasury, the sum of four thousand pounds currency, to compleat and finish the said parish buildings.

Provision for
repayment.

IX. And as a security for the repayment of the said sum so to be lent (without interest) to the said parish, *It is hereby enacted*, That the neat rents arising from the old parsonage house, and a convenient lot of land appurtenant thereto, to be let out by the said vestry and church-wardens, in manner as aforesaid, shall be annually paid into the public treasury, until the said loan shall be fully satisfied.

X. And *it is further enacted*, That the said old parsonage house, and lot of land appurtenant thereto, so to be letten out, shall stand and remain as a security for the repayment of the said loan, and subject to be absolutely sold for that purpose, in such way and manner as the General Assembly shall think fit to order and direct concerning the same, in case of failure in payment of the said loan, in a reasonable and proper time.

Disposal of
overplus funds.

XI. *Provided always, and be it hereby further enacted*, That whenever the reserved rents of the said glebe lots shall amount to upwards of the sum of three hundred pounds, lawful money of Great Britain, or the value thereof, the overplus monies or rents, exceeding that sum, shall be paid and applied towards the relief of the poor of the parishes of St. Philip and St. Michael, Charlestown, in the same way and manner as other poor rates are applied, and to and for no other use, intent or purpose whatsoever; any law, statute or usage, to the contrary notwithstanding.

P. MANIGAULT, *Speaker.**In the Council Chamber, the 7th day of April, 1770.**Assented to:*

WILLIAM BULL.

[Map omitted.]

Acts relating to the City of Charleston.

A. D. 1783.

AN ACT TO INCORPORATE CHARLESTON.

No. 1191.

WHEREAS, from the extent and population of Charlestown, its growing importance, both with respect to increase of inhabitants and an extensive commerce with foreign nations, it is indispensably necessary that many regulations should be made for the preservation of peace and good order within the same: and *whereas*, from the many weighty and important matters that occupy the attention of the Legislature at their general meeting, it has hitherto been found impracticable, and probably may hereafter become more so, for them to devise, consider, deliberate on, and determine, all such laws and regulations, as emergencies, or the last local circumstances of the said Town, may from time to time require:

Preamble.

I. *Therefore be it enacted*, by the Honorable the Senate and House of Representatives, and by the authority of the same, That from and immediately after the passing of this Act, all persons, citizens of the United States, and residing one year within the said Town, or having had a freehold one year within the same, shall be deemed, and they are hereby declared to be, a body politic and corporate; and the said Town shall hereafter be called and known by the name of the City of Charleston, and shall be divided into the following wards, viz: number one, from Wilkin's Fort, east side of Church street, to the south side of Tradd street, easterly to the Bay: number two, north side of Tradd street to the south side of Queen street, easterly: number three, from the north side of Queen street to the south side of Ellery street, easterly: number four, north side of Ellery street up to Meeting street, and along the same to the west end of Quince street, and along Quince street through Anson street to Boundary street, easterly: number five, south end of King street to the south side of Tradd street, easterly to Church street: number six, from Tradd street along King street, to the south side of Broad to Church street, easterly: number seven, north side of Broad street along King street to the south side of Queen street, easterly to Church street: number eight, north side of Queen street along King street, south of Hazell street, easterly to join the ward number three: number nine, from Hazell street along King street to Boundary street, and to join the ward number four, easterly: number ten, south end of Legare street, including the west end of Tradd street, easterly to King street: number eleven, north side of Tradd street to the west end of Broad street, easterly to King street: number twelve, north side of Broad street to the west end of Ellery street, easterly to King street: number thirteen, north side of Ellery street, west, to Boundary street, easterly to King street.

Charleston incorporated, and divided into wards.

II. *And be it further enacted* by the authority aforesaid, That the church wardens of the Parish of Saint Philip and Saint Michael, shall, within one month after passing this Act, give ten days public notice that wardens are to be chosen for each ward, whose qualification shall be the same as that for a member of the House of Representatives, and that all free white persons residing in each ward, being citizens of this State, who were taxed three shillings sterling the preceding year, or are taxed three shillings sterling in the present year, towards the support of the government of this State, shall be entitled to vote for a warden for their respective ward; and they shall also notify the time and place when and where the election is to be held in each ward, and appoint proper persons for managing and conducting the same; and the said persons, after the election is closed, shall make a return to the church wardens of the persons chosen wardens of the respective wards, and the said church wardens shall give notice to the several persons

Election of wardens, how to be held.

A. D. 1733.

Acts relating to the City of Charleston.

of their appointment, respectively, and summon them to meet together, at any time and place, within two days after their election, for the purpose of taking the oaths of qualification, allegiance and office, prescribed by law; which oaths may be administered by any one warden to the other; *provided*, seven shall be present at the time of administering the same.

Intendant, how
to be elected.

III. *And be it further enacted* by the authority aforesaid, That when seven or more of the said wardens shall have met and qualified as aforesaid, they shall, within ten days after such their qualification, give seven days public notice that an intendant of the City is to be chosen from among the wardens, and that a general election will be held for the purpose by proper persons, to be appointed at the time mentioned, under the Exchange of the said City, and that all persons qualified to vote for wardens in their respective wards, may attend and vote for such intendant; and when such intendant shall be chosen, he shall take the oaths of qualification, allegiance and office, prescribed by law, in the presence of the wardens; after which he may qualify such wardens as were not before qualified, issue a summons to the ward whose warden was chosen intendant, or to any other ward where there is a vacancy, to choose another warden for filling up such vacancy, appointing the time when and place where the election is to be held, and proper persons for managing and conducting the same.

Powers and du-
ties of City
Council.

IV. *And be it further enacted* by the authority aforesaid, That the said intendant shall and may, as often as occasion shall require, summons the wardens to meet together in city council, any nine of whom to be a quorum, who, with the intendant, shall be known by the name of, and they are hereby declared to be, the *City Council of Charleston*; and they, and their successors hereafter to be appointed, shall have a common seal, and shall be capable in law to purchase, have, hold, receive, enjoy, possess and retain, to them and their successors, for the use of the city of Charleston, in perpetuity or for any term of years, any estate or estates, real or personal, messuages, lands, tenements or hereditaments, of what kind or nature soever, within the limits of the said city and the parish of St. Philip, and to sell, alien, exchange or lease the same, or any part thereof, as they shall think proper; and by the same name to sue and be sued, implead and be impleaded, answer and be answered unto, in any court of law or equity in this State; and they shall also be vested with full power and authority, from time to time, under their common seal, to make and establish such bye-laws, rules and ordinances, respecting the harbour, streets, lanes, public buildings, work houses, markets, wharves, public houses, carriages, wagons, carts, drays, pumps, buckets, fire engines, the care of the poor, the regulation of seamen or disorderly people, negroes, and in general, every other bye-law or regulation that shall appear to them requisite and necessary for the security, welfare and convenience of the said city, or for preserving peace, order and good government within the same; and they shall also be vested with all the powers and authorities which by law are vested in the commissioners of the streets, commissioners of the markets, of the work house, fire-masters, and commissioners of the pilotage; and they may take such effectual measures for carrying into execution all laws now in force respecting the said city and harbour, as to them shall appear expedient and necessary; and the said city council shall also be vested with full power and authority to make such assessments on the inhabitants of Charleston, or those who hold taxable property within the same, for the safety, convenience, benefit and advantage of the said city, as shall appear to them expedient; and to affix and levy fines for all offences committed against the bye-laws of the said city; and to recover all such penal-

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ties as may be incurred under any law or laws now existing respecting the said city; and they are hereby also authorized to appoint a Recorder, treasurer, clerk, coroner, harbor master, fire masters, constables, and all such other officers (affixing their salaries, and fees of such officers, respectively,) as shall appear to them requisite and necessary for carrying into effectual execution all bye-laws, rules and ordinances they may make for the good order and government of the said city, and the persons residing within the same; *provided, always*, that nothing herein contained shall authorize the city council to lay a duty of more than three pence per ton on any shipping in the harbour; nor shall they make any bye-laws repugnant to the laws of the land, or inconsistent with treaties made with foreign nations; and *provided, also*, that all the bye-laws, rules and ordinances they may make, shall at all times be subject to the revisal, alteration or repeal of the Legislature.

V. *And be it further enacted* by the authority aforesaid, That the fee simple of the following public lands and buildings within the said city, viz: the lands appropriated for the Exchange, the beef market, the lower market, the fish market, the market at the western end of Broad street, with the buildings respectively thereon, and the lands and appurtenances belonging thereto; the marsh lands appropriated by law for a common; the lands bounded by Queen street, Magazine street, Back street, and Mazyck street, (except two hundred feet square at the north-west corner thereof, reserved for a gaol;) such part of the negro burial ground as is public property; the lands on which the horn-work, at the north part of the city, is situate, and the public lands near the same, purchased of the Wragg and Manigault family; any vacant low water lots fronting any of the streets; shall be vested in the said city council and their successors, for the use and advantage of the said city, to be leased, sold, improved on, or otherwise disposed of, as to the said city council shall appear most conducive to the welfare and advantage of the said city, and the inhabitants thereof. And all fines and forfeitures for offences committed within the said city, against any of the bye-laws of the same, shall be sued for by the Recorder, and lodged with the treasurer of the said city, to be at the disposal of the city council, for the use and advantage of the said city.

VI. *And be it further enacted* by the authority aforesaid, That in case of tumults or riot, or appearance or probability of tumult or riot, in the said city, the intendant shall immediately summons together the city council, and order the constables and other city officers to attend the city council, and such measures shall thereupon be taken as shall appear most advisable for preventing or suppressing such riot or tumult; and if any city officer shall neglect or refuse to obey the order for attendance from the intendant, he shall forfeit a sum not exceeding ten pounds sterling for every such offence; and any other inhabitant refusing to obey the orders of the intendant, for the purposes of suppressing any riot or tumult, he shall forfeit a sum not exceeding five pounds sterling for every such refusal.

VII. *And be it further enacted* by the authority aforesaid, That the said wardens shall each of them have full power and authority, and they are hereby required, to keep peace and good order in the respective wards, to issue warrants and cause all offenders against law to be brought before them, and on examination either to release, admit to bail, if the offence be bailable, or committed to the custody of the sheriff of Charleston district, who is hereby required and commanded to receive the same, and the same to keep in safe custody until discharged by due course of law; and the said

Certain lands
vested in the
city council.

In case of riot,
what to be
done.

Powers and
duties of the
wardens.

A. D. 1763.

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wardens, or any three of them, shall, in rotation, meet twice a week, or oftener if occasion require, in the city hall, over the Exchange, to hear and determine all small and mean causes, agreeable to the directions of the Act of the General Assembly, and all other matters of complaint arising within the said city; and each and every of the said wardens for the time being, shall be vested with all the powers and authorities that justices of the peace are vested with by the laws of this State, and shall and may exercise the same in every part of the said city, for the preservation of peace and good order thereof.

Election of wardens.

VIII. *And be it further enacted* by the authority aforesaid, That on the first Monday in September, one thousand seven hundred and eighty-four, and on the first Monday in September every year thereafter, there shall be an election of wardens for each ward, and the intendant for the time being shall give at least ten days notice of such election, appoint a place for holding it in each ward, and proper persons for managing and conducting the same; and the persons so chosen may take the oaths of qualification, allegiance and office, before the intendant for the time being, after which they shall be fully qualified to act as wardens, or sit as members of the city council; but after a new election of wardens, none of the former wardens shall sit as members of the city council, unless they have been re-elected.

Election of Intendant.


IX. *And be it further enacted* by the authority aforesaid, That on the second Monday in September, one thousand seven hundred and eighty-four, and on every Monday in September thereafter, an intendant shall be chosen from among the wardens, by the inhabitants of all the wards, at the city hall, over the Exchange, or at such other place as the intendant for the time being shall think proper, who shall give ten days notice of such election, and appoint proper persons for conducting the same; and the person so chosen shall take the oath of qualification in the presence of the wardens, until which the former intendant shall continue to act; but no person shall be eligible to serve as an intendant for more than three years in any term of five years.

Vacancies, how to be filled.

X. *And be it further enacted* by the authority aforesaid, That in case of the death of the intendant, his resignation, removal from office, or absence from the State, the wardens shall thereupon appoint a time for choosing another, and give ten days public notice of the same; and in case of vacancy in any of the wards, by death or otherwise, the intendant shall issue a summons to the ward for filling up such vacancy, giving five days notice of the same. And if any person, on being elected intendant, shall refuse to act, he shall forfeit and pay to the treasurer of the city, for the use of the same, the sum of thirty pounds sterling. And if any person, on being elected warden, shall refuse to act, he shall also pay to the treasurer of the city the sum of twenty pounds sterling; *provided*, that no person who has attained the age of fifty years shall be compelled to serve in either of the said offices, nor shall any other person be obliged to serve more than one year in any term of seven years. And in case the intendant or any of the wardens, whilst in office, shall be guilty of any wilful neglect, mal-practices or abuses, on information being filed of the same, at the Court of General Sessions, and conviction thereof, he shall forfeit and pay a sum not exceeding two hundred pounds sterling for every such wilful neglect, mal-practice or abuse, the money to be recovered by the recorder, and lodged with the city treasurer, for the use and benefit of the said city.

Penalty for refusing to serve, and for mal-practice in office.

XI. *And be it further enacted* by the authority aforesaid, That if any

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person shall be sued for any thing done by virtue of this Act, he may plead the general issue and give this Act and the special matter in evidence.

In the Senate, the thirteenth day of August, in the year one thousand seven hundred and eighty-three,

JOHN LLOYD, *President of the Senate.*

HUGH RUTLEDGE, *Speaker of the House of Representatives.*

AN ACT TO EXPLAIN AND AMEND AN ACT ENTITLED "AN ACT TO No. 1228.
INCORPORATE CHARLESTON;" AND TO ENLARGE THE POWERS OF THE
CITY COUNCIL.

WHEREAS, doubts have arisen respecting an Act entitled "An Act to incorporate Charleston," so far as regulates the power of the council of wardens to commit for penalties and forfeitures, incurred by virtue of the bye-laws of the said corporation.

Preamble.

I. *Be it therefore enacted* by the Honorable the Senate and House of Representatives, and by the authority of the same, That the said Court of wardens ought, and they are hereby fully authorized and empowered, from time to time, to commit to close prison all such person and persons who shall incur any penalties and forfeitures intended to be inflicted by any of the bye-laws of the said corporation, passed conformable to the powers vested in them by the said Act of incorporation.

Court of wardens authorized to commit, &c.

II. *Be it further enacted* by the authority aforesaid, That the said corporation shall be, and they are hereby, fully authorized and empowered, from time to time, to erect, and proceed to the drawing, and finally to conclude, any lottery or lotteries, that they may think necessary to establish for the use and benefit of the city of Charleston.

May draw lotteries.

III. *And be it further enacted* by the authority aforesaid, That the city council of Charleston be, and they are hereby, vested with full power and authority to regulate, from time to time, the price and assize of bread.

May regulate the assize of bread.

IV. *And be it further enacted* by the authority aforesaid, That the city council of Charleston be invested with all the powers and authorities which by any Act or Acts of the General Assembly were formerly vested in the commissioners of fortifications, so far as the same relate to the pulling down or removing any building or other erection on any of the wharves, or within fifty feet of the curtain line on the Bay of Charleston.

Their powers as to fortifications and the wharves.

V. *And be it further enacted* by the authority aforesaid, That the city council shall have power and authority to permit the owners or occupiers of wharves to construct ware-houses, cellars or arches, along the said curtain line, of such dimensions as shall be approved of by the said city council, so as the same be not more than six feet in height, or thirty feet wide, and that the whole be of one uniform construction; and to make such other regulations for the benefit of the owners of the said wharves, and the health and convenience of the city, from time to time, as shall appear proper and convenient.

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Jurisdiction in
matters of debt,
not exceeding
£20.

VI. *And be it further enacted* by the authority aforesaid, That from and after the passing of this Act, it shall and may be lawful for the intendant and wardens of the corporation of Charleston, or any one of them, upon complaint made by petition from the seamen, for the non payment of their wages, or by any other person for the non-payment of any debt or sum of money, or of any damage, not exceeding twenty pounds, by whatever means, for any cause, matter or thing, the said debt or sum of money became due, or the damages were sustained, except when the titles of lands may come in question, to issue a warrant directed to any one of the constables, to summon the defendant, and all witnesses required by either party, to appear at the court of wardens, on such a day as shall be therein appointed; which summons, with a true copy of the petition annexed, shall be served ten days on the defendant before the sitting of the said court.

VII. *And be it further enacted* by the authority aforesaid, That the court of wardens shall and may have, hold and exercise the same powers and authorities therein respectively, touching all matters within the limits of their jurisdiction, and which do not exceed in value twenty pounds, except when the title of lands may come in question, as the Judges of the Court of Common Pleas or Admiralty have, hold or do exercise in their several jurisdictions; and that the said court of wardens shall be a court of record, and all persons necessarily going to, attending on, or returning from, the same, shall be free from arrests in any civil action.

In the Senate House, the twenty-sixth day of March, in the year of our Lord one thousand seven hundred and eighty-four, and in the eighth year of the Independence of the United States of America.

JOHN LLOYD, *President of the Senate.*

H. RUTLEDGE, *Speaker of the House of Representatives.*

No. 1297. AN ACT TO EXPLAIN AND AMEND THE "ACT FOR INCORPORATING THE CITY OF CHARLESTON, AND ENLARGING THE POWERS OF THE CITY COUNCIL;" AND TO PREVENT A CLASHING OF JURISDICTION WITHIN THE SAME.

WHEREAS, many Acts of the Legislature, respecting the internal government and police of Charleston, before it was incorporated, remain unrepealed, and Ordinances for the same purposes have been framed by the City Council, by which means a clashing of jurisdiction may arise between the State magistrates and the City officers, as there may be a doubt whether both have not equal power to act under each; in order to obviate any difficulties on such occasions,

I. *Be it enacted*, by the Honorable the Senate and House of Representatives, and by the authority of the same, That from and immediately after the passing of this Act, all such Acts of the Legislature shall be, and they are hereby, repealed.

II. *And whereas*, no provision is made in case of the sickness, temporary absence, or other occasion of non-attendance of the Intendant, *Be it*

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enacted by the authority aforesaid, That the city council shall be empowered to elect one of the Wardens to act in his room on any such occasion.

In the Senate House, the twelfth day of October, in the year of our Lord one thousand seven hundred and eighty-five, and in the tenth year of the Independence of the United States of America.

JOHN LLOYD, *President of the Senate.*

JOHN FAUCHEREAUD GRIMKE, *Speaker of the House of Representatives.*

AN ACT TO AUTHORIZE COMMISSIONERS FOR CONTINUING EAST BAY-STREET TO ASHLEY RIVER, TO MAKE A NEW ASSESSMENT FOR COMPLEATING THE SAME; AND TO REPEAL SUCH CLAUSES OF THE HIGH-ROAD ACT, PASSED THE TWENTY-SECOND DAY OF MARCH, ONE THOUSAND SEVEN HUNDRED AND EIGHTY-FIVE, AS RELATE TO THE SAID STREET. No. 1359.

WHEREAS, it is found necessary to alter the mode of assessment for the continuance of East Bay-street to Ashley river.

I. *Be it therefore enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the expense of making and compleating East Bay-street, continued, from the wall of Granville's bastion to Ashley river, shall be borne by the owners and proprietors of lands adjoining and contiguous thereto; and that the commissioners formerly appointed, or such others as the city council may appoint, be, and they, or a majority of them, are hereby authorized and empowered, to assess the owners and proprietors of lands hereafter mentioned, for the expences aforesaid, as well those already incurred as those to be incurred, in the following manner, that is to say, the owners and proprietors of all lands from the wall of Mr. Sommers's lot, at the corner of East Bay-street, in a line to Ashley river, and the owners of lots in Stoll's alley, that front on the canal leading from the flood gate, as far as Young's bridge, and of all lands within the flood gate, shall pay a twenty fold proportion; and the proprietors of lands on the east side of Church-street continued, from Young's bridge to the end of Broughton's battery, in an eighth fold proportion, more than the other owners of lands to be assessed, (viz:) the owners and proprietors of lands on the west side of Church-street continued, from Mr. Young's house to the end of Broughton's battery, both inclusive, or when the remainder of such assessment shall be made.

Assessment,
how to be
made.

II. *And be it further enacted* by the authority aforesaid, That the commissioners, in making such assessment, shall have relation to the value of each lot within the aforesaid limits, according to the assessment of the collectors of the general tax for the year one thousand seven hundred and eighty-six; and that after such assessment is made, the same shall be delivered over to the city treasurer, who is hereby authorized and required to collect the same; and in default of payment, to issue executions against defaulters.

How to be
collected.

A. D. 1788.

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III. *And be it further enacted* by the authority aforesaid, That the commissioners formerly appointed shall be, and they are hereby, indemnified from any prosecutions or suits, for or on account of any contracts which they may have entered into, by virtue of their former appointment, until six months after the present assessment shall be made and compleated.

IV. *And be it further enacted* by the authority aforesaid, That the twenty-eighth clause of an Act of the General Assembly, passed the twenty-second day of March, one thousand seven hundred and eighty-five, entitled "An Act for keeping in repair the several high roads and bridges throughout the State, be, and the same is hereby, repealed.

In the Senate House, the twenty-seventh day of March, in the year of our Lord one thousand seven hundred and eighty-seven, and in the eleventh year of the Independence of the United States of America.

JOHN LLOYD, *President of the Senate.*

JOHN J. PRINGLE, *Speaker of the House of Representatives.*

No. 1412. AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO AUTHORIZE COMMISSIONERS FOR CONTINUING EAST BAY-STREET TO ASHLEY RIVER, TO MAKE A NEW ASSESSMENT FOR COMPLEATING THE SAME; AND TO REPEAL SUCH CLAUSES OF THE HIGH-ROAD ACT, PASSED THE TWENTY-SECOND DAY OF MARCH, ONE THOUSAND SEVEN HUNDRED AND EIGHTY-FIVE, AS RELATE TO THE SAID STREET."

Preamble.

WHEREAS, the commissioners appointed by the city council to make an assessment for the discharge of the expenses attending the compleating of East Bay-street, have not hitherto performed the duties directed by the Act of Assembly, passed the twenty-seventh day of March, one thousand seven hundred and eighty-seven, relative to East Bay-street:

Comrs. to account.

I. *Be it therefore enacted*, by the Honorable the Senate and House of Representatives, now met in General Assembly, and by the authority of the same, That within one month from the passing of this Act, that the said commissioners, appointed by the city council, for carrying the Acts of the Legislature into execution, respecting East Bay-street, shall make up, and lay before the city council, a fair and just statement of their receipts and expenditures, in the carrying into effect such Acts; and in default thereof, such commissioners shall be liable to any action or suit, by any person or persons to whom such commissioners may stand indebted for materials furnished or work done to East Bay-street, and shall be subject to advance, out of their private fortunes, such damages as shall be recovered of them, by the verdict of a jury.

Assessment, how to be made.

II. *And be it further enacted* by the authority aforesaid, That the commissioners appointed by the city council, and the survivors or survivor of them, or any other commissioners who may be appointed, or the survivors or survivor of them, shall make out the assessment within six months after the passing of this Act, for defraying the expenses incurred, and to be incurred, by the making and compleating of the said East Bay-street, under

the penalty of being liable to an action, and to the payment of such damages as shall be assessed by the verdict of a jury, to any person or persons who shall have supplied materials or done any work to the said street, and who have not as yet been paid for such materials or work; which assessment shall be made on the several owners and proprietors of lands hereafter mentioned, according to the breadth of their respective lots, at the following rates, in four different classes, (viz.) First class to consist of the owners of lands from the wall of Mr. Sommer's lot, at the corner of East Bay-street, in a line to Ashley river; second class, the owners of lots on Stoll's alley, that front on the canal or Water-street leading from the flood gate, that join the canal, or are washed by the tide; third class, the owners of lots on the east side of Church-street continued, from Young's bridge to the end of Broughton's battery, including those in Lynch's lane, who do not join the canal; fourth class, the owners of lots on the west side of Church-street continued, from Mr. Young's house to the end of Broughton's battery, both inclusive; and that the rates of assessment be as follows, (viz.) the first class to pay at the rate of twenty shillings per foot; second class, at the rate of twelve shillings per foot; third class, at the rate of five shillings per foot; fourth class, at the rate of four shillings per foot; and so in proportion, more or less, as the expenses of completing the said work may require.

In the Senate House, the twenty-ninth day of February, in the year of our Lord one thousand seven hundred and eighty-eight, and in the twelfth year of the Independence of the United States of America.

JOHN LLOYD, *President of the Senate.*

JOHN J. PRINGLE, *Speaker of the House of Representatives.*

AN ACT TO AUTHORIZE THE COMMISSIONERS FOR CONTINUING EAST No. 1442.

BAY STREET TO ASHLEY RIVER, TO MAKE A NEW ASSESSMENT FOR COMPLETING THE SAME; AND TO REPEAL THE TWENTY-EIGHTH CLAUSE OF AN ACT OF THE GENERAL ASSEMBLY, PASSED THE TWENTY-SECOND DAY OF MARCH, IN THE YEAR OF OUR LORD ONE THOUSAND SEVEN HUNDRED AND EIGHTY-FIVE, ENTITLED "AN ACT FOR KEEPING IN REPAIR THE SEVERAL HIGH ROADS AND BRIDGES THROUGHOUT THIS STATE;" AND AN ACT OF THE GENERAL ASSEMBLY, PASSED THE TWENTY-SEVENTH DAY OF MARCH, IN THE YEAR OF OUR LORD ONE THOUSAND SEVEN HUNDRED AND EIGHTY-SEVEN, ENTITLED "AN ACT TO AUTHORIZE THE COMMISSIONERS FOR CONTINUING EAST BAY STREET TO ASHLEY RIVER, TO MAKE A NEW ASSESSMENT FOR COMPLETING THE SAME."

WHEREAS, it is found necessary to alter the mode of assessment for continuing East Bay street to Ashley River.

I. *Be it enacted* by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority
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of the same ; That East Bay street, for the present, shall be continued from the wall of Granville's Bastion to Ashley River, thirty feet wide ; and that the remaining part of the land laid out for the said street be, and is hereby, vested in the corporation of the city of Charleston, for the sole purpose of completing the said street to the full width of East Bay street as it now is.

Expense, how
to be assessed.

II. *And be it further enacted* by the authority aforesaid, That the expense of making and completing of East Bay street, from the wall of Granville's Bastion to Ashley River, thirty feet wide, shall be borne and paid by the owners of lands adjoining and contiguous thereto ; and that the commissioners formerly appointed, or such others as the city council may appoint, be, and they, or a majority of them, are hereby authorized and empowered to, assess the owners and proprietors of the lands hereafter mentioned, for the expenses aforesaid, as well those already incurred as those to be incurred, in the following manner, that is to say :—The owners and proprietors of all lands from the wall of Mr. Somers's lot, at the corner of East Bay street, in a line to Ashley River, at forty shillings per foot front ; and the owners of lots on Stoll's alley, that front on the Canal leading from the Flood-gate to Young's Bridge, and all the lands within the Flood-gate, shall pay twenty-four shillings per foot ; and the owners of lots on the East side of Church street continued, from Mr. Young's Bridge to where formerly stood Broughton's Battery, inclusive, shall pay at the rate of sixteen shillings per foot ; and the owners of all lands on the west side of Church street continued, from Mr. Young's house, inclusive, to Ashley River, shall pay at the rate of twelve shillings per foot ; *Provided nevertheless*, that any owner or proprietor of lands fronting on the said street, who shall, within six months after the passing of this Act, make and complete the street in front of his, her or their land respectively, of the same dimensions with other parts of the said street, and approved by the commissioners for completing the said street, shall be exempted from any assessment for any part of the expense incurred or to be incurred for making and completing East Bay street as aforesaid.

Commissioners
exonerated.

III. *And be it further enacted* by the authority aforesaid, That the commissioners formerly appointed shall be, and they are hereby, indemnified from any prosecutions or suits for or on account of any contracts which they may have entered into by virtue of their former appointment, until six months after the present assessment shall be made and completed.

Repealing
clause.

IV. *And be it further enacted* by the authority aforesaid, That the twenty-eighth clause of an Act of the General Assembly, passed the twenty-second day of March, in the year of our Lord one thousand seven hundred and eighty-five, entitled "An Act for keeping in repair the several high roads and bridges throughout the State ;" and "An Act to authorize the commissioners for continuing East Bay street to Ashley River, to make a new assessment for completing the same," passed the twenty-seventh day of March, in the year of our Lord one thousand seven hundred and eighty-seven, be, and the same are hereby, repealed.

In the Senate House, the seventh day of March, in the year of our Lord one thousand seven hundred and eighty-nine, and in the thirteenth year of the Independence of the United States of America.

D. DE SAUSSURE, *President of the Senate.*

JACOB READ, *Speaker of the House of Representatives.*

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A. D. 1791.

AN ACT TO ASCERTAIN THE JURISDICTION OF THE COURT OF WARDENS No. 1502.
OF THE CITY OF CHARLESTON, IN THE CASES THEREIN MENTIONED.

WHEREAS, the Intendant and Wardens of the city of Charleston have, by their memorial to the Legislature of this State, enumerated several cases, wherein doubts have arisen respecting the extent of the jurisdiction of the Court of Wardens, and in their said memorial did pray that their jurisdiction might be so clearly defined that they might know the actual extent thereof :

Preamble.

I. *Be it therefore enacted* by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That where any debt, not exceeding twenty pounds, is contracted out of the city, or any damage (not affecting the rights of freehold) is committed out of the limits thereof, and the party contracting such debt, or committing such damage, is found within the city, that the court of wardens shall be, and they are hereby, invested with power and jurisdiction to take cognizance of the same, in as ample a manner as if the debt had been contracted, or as if the damage had been done, within the limits thereof.

Jurisdiction as to debt.

II. *And be it further enacted* by the authority aforesaid, That the said court of wardens shall and may, and they are hereby authorized and empowered, on the application of any person or persons interested in any suit depending in the said court, to grant a commission, to be directed to one or two commissioners, empowering them to examine and cross examine, on oath or solemn affirmation, the witnesses mentioned in the said commission, who reside without the limits of the city ; and the testimony of the witnesses so examined shall be as valid as if the same were taken in open court ; *provided*, that the person or persons making such application, shall give to the plaintiff or defendant, (as the case may be) six days notice of such application ; and if any person mentioned as a witness in such commission shall refuse to give testimony, to the best of his or her knowledge, on oath or solemn affirmation, before the said commissioner or commissioners, on being summoned, every person so refusing, if he shall reside and be in the election district of the commissioner summoning him, at the time when summoned, shall be liable to a fine of twenty pounds, to be recovered by the party aggrieved, in any court of record within the State.

May issue commissions to examine witnesses.

III. *And whereas*, advantages may arise, by enforcing in a summary manner the performance of contracts on short credits, if the court of wardens were invested with power to take cognizance, by separate processes, of all cases where several bonds, notes, or other evidences of debt, due by one debtor, are in or come to the hands of the same creditor, and which bonds, notes, and other evidences of debt, amount, in the whole, to more than twenty pounds, though each, separately, is under that sum ; *Be it therefore enacted* by the authority aforesaid, That where the same creditor is possessed of divers bonds, notes and other evidences of debt, due from the same debtor, and which said bonds, notes and other evidences of debt, amount, in the whole, to more than twenty pounds, though each separately is under that sum, it shall and may be lawful for the court of wardens, on application made by petition, to issue separate processes, and enter up separate judgments, and issue separate executions, on each of the said bonds, notes and other evidences of debt, as if each of them had been in distinct hands ; *provided* each process, judgment and execution, shall not

In case of several demands in the hands of one creditor.

A. D. 1792.

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exceed twenty pounds; and *provided*, all the demands which the same plaintiff appear to have against the same defendant, if they do not together exceed twenty pounds, shall be blended in the same process, to prevent splitting of actions.

Counsellors,
attornies, &c.

IV. And *whereas*, it has been doubted whether the counsellors, attornies, solicitors and clerks, of the superior courts, are amenable to the court of wardens, in causes within their jurisdiction; *Be it therefore enacted and declared* by the authority aforesaid, That as in a free republic the citizens ought to be entitled to equal liberties and equal privileges, so no set of men are exempt from the process of any court, within the limits of its jurisdiction, without such exemption is expressly granted by the constitution; any law, usage or custom, to the contrary thereof in any wise notwithstanding.

In the Senate House, the nineteenth day of February, in the year of our Lord one thousand seven hundred and ninety-one, and in the fifteenth year of the Independence of the United States of America.

DAVID RAMSAY, *President of the Senate.*

JACOB READ, *Speaker of the House of Representatives*

No. 1545. AN ACT TO GRANT A FURTHER TIME TO THE OWNERS OF WHARVES IN CHARLESTON, AND OTHER PERSONS HAVING WOODEN BUILDINGS THEREON, USED AS STORES ONLY, TO PULL THE SAME DOWN.

WHEREAS, it has been represented to the Legislature, by a number of owners of wharves in Charleston, that a compliance with the Act of the General Assembly of the State aforesaid, passed the twenty-seventh day of March, in the year of our Lord one thousand seven hundred and eighty-seven, requiring all wooden buildings thereon erected, to be taken down within a certain time therein mentioned, would operate to the injury of individuals, and tend also to great public inconvenience, by lessening the number of stores necessary for the produce of this country:

I. *Be it therefore enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That all owners of wharves in Charleston, and other persons having wooden buildings thereon, and not [used] as dwelling houses, shall, for the reasons aforesaid, be allowed a further time, until the first day of August, one thousand seven hundred and ninety-six, to pull down and remove the same.

II. *And be it further enacted* by the authority aforesaid, That no owner or other person, having such building or buildings, used as stores only, and not as dwelling houses, shall be subject or liable to the penalty imposed in and by the aforesaid Act, until after the expiration of the time herein before limited; any law, usage or custom, to the contrary notwithstanding.

In the Senate House, the twenty-first day of December, in the year of our Lord one thousand seven hundred and ninety-two, and in the seventeenth year of the Independence of the United States of America.

DAVID RAMSAY, *President of the Senate.*

JACOB READ, *Speaker of the House of Representatives.*

Acts relating to the City of Charleston.

A. D. 1795.

AN ACT TO VEST THE CITY COUNCIL OF CHARLESTON WITH CERTAIN POWERS THEREIN MENTIONED. No. 1619.

I. *Be it enacted*, by the Senate and House of Representatives, now sitting in General Assembly, and by the authority of the same, That the city council of Charleston shall be, and they are hereby, vested with full power and authority to take up and confine to labor, (if they are capable thereof,) all strolling beggars, found strolling and begging about the city of Charleston, and to make such rules and ordinances for the due regulation of such persons, as they shall see fit.

II. *And be it further enacted* by the authority aforesaid, That the city council of Charleston shall be, and they are hereby, vested with full power and authority to elect the commissioner or commissioners of roads, for the parishes of St. Michael's and St. Philip's, in all cases of vacancies that shall hereafter happen; any law, usage or custom, to the contrary in any wise notwithstanding; and such commissioner or commissioners so elected, shall be vested with the same authority, and subject to the same duties and penalties, as commissioners of roads heretofore have been.

In the Senate House, the nineteenth day of December, in the year of our Lord one thousand seven hundred and ninety-five, and in the twentieth year of the Independence of the United States of America.

DAVID RAMSAY, *President of the Senate.*

ROBERT BARNWELL, *Speaker of the House of Representatives.*

AN ACT TO COMPLETE EAST BAY-STREET, IN CHARLESTON; AND FOR OTHER PURPOSES THEREIN MENTIONED. No. 1629.

WHEREAS, difficulties have arisen in completing East Bay-street, from the want of concert among the proprietors of the land to be benefitted thereby; in remedy whereof, and to enable the City Council of Charleston to compleat the said street, agreeably to the plan last adopted by them:

Preamble.

I. *Be it enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That it shall and may be lawful for the city council of Charleston, and they are hereby required, to nominate and appoint three good and disinterested freeholders to act as commissioners, who shall, and they are hereby authorized to, assess on each lot or parcel of land, to be benefitted by the completion of East Bay-street, a sum of money proportionate to the benefit likely to be received by such lot or parcel of land, from the completion of the said street.

Assessors to be appointed.

II. *And be it further enacted* by the authority aforesaid, That the city council shall, and they are hereby required to, collect from the proprietors of the land likely to be benefitted by the completion of the said street, all such sums of money as shall be assessed by the commissioners appointed by virtue of this Act, within six months after such assessment, in such manner, and under such penalties, as city taxes now are or hereafter may be collected; *provided always nevertheless*, that it shall not be lawful for the commissioners appointed by this Act to assess on the proprietors of

Assessment, how to be collected.

A. D. 1795.

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the said land, any other or greater sums of money than may be necessary, with the other funds provided for that purpose, to complete the said street; and *provided further*, that it shall and may be lawful for any person or persons, who may feel themselves aggrieved by any assessment to be made by virtue of this Act, to appeal therefrom to the city council of Charleston, who are hereby authorized to grant such relief as from the circumstances of the case to them shall seem just and proper.

Compensation
for land, used
for Fort
Mechanic.

III. And *whereas*, the land of several citizens has been taken for the building of a fort called Fort Mechanic, and some of the said persons have petitioned the Legislature to allow them a compensation for the same; and it appears that the city council of Charleston have in their hands certain funds arising from the sale of certain lots in the said city, which it is supposed will be sufficient to indemnify the said petitioners; *Be it further enacted*, That compensation shall be made to all such persons as have had their lands taken from them for the purpose of building the said fort; the amount of which compensation shall be ascertained by Thomas Jones, John Splatt Cripps and Edward Darrell, who are hereby appointed commissioners for the said purpose; and such compensation, when ascertained by the said commissioners, shall be paid by the city council, out of the said fund in their hands; and the said city council are further authorized and required, if there should be any balance of the said funds remaining in their hands, to apply the same to the effectual securing of the said fort from the injury it may sustain from the dashing of the waters against the foundation of it, in such manner as by the commissioners of the streets of Charleston shall be deemed the most effectual; *provided*, that the present owners of the land on which fort Mechanic is built, shall make good and sufficient titles to the said lands to the Governor of the State, and his successors, in trust for the State.

Oath.

IV. And *be it further enacted* by the authority aforesaid, That the commissioners appointed as before directed, shall, and they are hereby required, before they proceed to the execution of the duties imposed by this Act, to take and subscribe, before some justice of the peace, the following oath or affirmation, viz: I, A B, do solemnly swear, (or affirm, as the case may be,) that I will truly and impartially rate and assess each lot or parcel of land, likely to be benefitted by the completion of East Bay-street, in proportion to the benefit which, in my conscience, I believe the land so assessed is likely to receive from the completion of the said street.

Voluntary
subscriptions.

V. And *whereas*, several of the proprietors of land likely to be benefitted by the completion of East Bay-street, have, since the city council last undertook to complete the said street, voluntarily subscribed or paid subscriptions to defray the expenses of completing the same; in order therefore that equal justice may be done, *Be it enacted* by the authority aforesaid, That all sums so subscribed or paid, shall be a valid discount against any assessment to be made by virtue of this Act.

In the Senate House, the nineteenth day of December, in the year of our Lord one thousand seven hundred and ninety-five, and in the twentieth year of the Independence of the United States of America.

DAVID RAMSAY, *President of the Senate.*

ROBERT BARNWELL, *Speaker of the House of Representatives.*

Acts relating to the City of Charleston.

A. D. 1796.

No. 1636.

AN ACT TO AUTHORIZE THE CITY COUNCIL OF CHARLESTON TO INCREASE THE TAX ON LICENSES FOR RETAILING SPIRITUOUS LIQUORS, AND TO EXEMPT CERTAIN OFFICERS OF THE CITY OF CHARLESTON FROM SERVING ON JURIES.

I. *Be it enacted* by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That from and immediately after the passing of this Act, it shall and may be lawful for the city council of Charleston, and they are hereby authorized, to increase the tax on licenses for retailing spirituous liquors, according to their discretion.

II. *And be it further enacted* by the authority aforesaid, That the following officers of the city of Charleston, that is to say, the intendant, wardens, city treasurer, city sheriff, marshall, and city recorder, be, and they are hereby, exempted and excused from serving on juries.

In the Senate House, the nineteenth day of December, in the year of our Lord one thousand seven hundred and ninety-six, and in the twenty-first year of the Independence of the United States of America.

DAVID RAMSAY, *President of the Senate.*

ROBERT BARNWELL, *Speaker of the House of Representatives.*

AN ACT TO DECLARE MORE EXPLICITLY THE POWERS OF THE CITY COUNCIL OF CHARLESTON, AS TO THE SALE AND RE-SALE OF CERTAIN PUBLIC LOTS ON EAST BAY-STREET CONTINUED; AND FOR OTHER PURPOSES THEREIN MENTIONED. No. 1670.

WHEREAS, some doubts have arisen in the execution of the powers given by the several Acts and resolutions of the Legislature to the City Council of Charleston, relative to the lots on East Bay-street continued; for the removal of those doubts, Preamble.

I. *Be it enacted*, by the honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the city council of Charleston shall appraise, or cause to be appraised by impartial appraisers, such slips of public land as separate the proprietors of adjacent lots from East Bay-street continued, or from South Bay-street, and to offer the preemption of the aforesaid slips to the aforesaid proprietors, at the price at which they shall be respectively appraised. Certain lands, how to be disposed of.

II. *And be it further enacted* by the authority aforesaid, That the city council of Charleston shall and may sell, or cause to be sold, or resold, as circumstances may require, all other lots of land situate on East Bay-street continued, and on South Bay-street, which remain unsold, or have been taken back from purchasers who did not comply with the terms of sale; and that on payment of the value of the lots appraised, sold, or resold, as aforesaid, the city council shall execute titles in due form, conveying the said lots in fee simple, to the several purchasers; and shall apply the proceeds of such sales and resales of the said lots in the manner prescribed by the third section of the Act of the Legislature, passed the nineteenth day of December, in the year of our Lord one thousand seven

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hundred and ninety-five, entitled "An Act to complete East Bay-street in Charleston; and for other purposes therein mentioned."

Toll.

III. *And be it further enacted* by the authority aforesaid, That the city council shall be, and they are hereby, authorized to demand and receive a toll on such carriages, persons, horses, cattle, baggage, merchandize, and other articles, as may land or be landed, or as may be embarked, or be shipped, at the slip at the lower end of Queen-street, (except on persons and goods brought over from Hibben's Ferry, in his ferry boat,) not exceeding the rates now received by the owners of wharves and other landing places in Charleston.

Quorum of city council.

IV. *And whereas*, it has been found inconvenient to require so large a number of wardens to form a quorum of the city council of Charleston, as is now required by law; *Be it further enacted*, That except in the imposition of taxes and the appropriation of money, the intendant and seven wardens of the city council of Charleston shall form a quorum to do and perform all the duties imposed, and to exercise all the powers and authorities vested in the city council, by the charter or any law.

In the Senate House, the sixteenth day of December, in the year of our Lord one thousand seven hundred and ninety-seven, and twenty-second year of the Independence of the United States of America.

DAVID RAMSAY, *President of the Senate.*

ROBT. BARNWELL, *Speaker of the House of Representatives.*

No. 1680. AN ACT TO ASCERTAIN WHAT DAMAGES ROBERT LINDSAY, WILLIAM TURPIN, AND THE ESTATE OF JAMES SOMMERS, (DECEASED,) HAVE SUSTAINED BY EAST-BAY STREET BEING CONTINUED THROUGH THEIR LANDS.

Preamble.

WHEREAS, the Legislature of this State did, on the nineteenth day of December, one thousand seven hundred and ninety-five, pass an Act entitled "An Act to complete East Bay street, in Charlestown, and for other purposes therein mentioned;" by virtue whereof the city council of Charleston were required to appoint three commissioners, with powers to assess each lot or parcel of land, to be benefitted by the completion of the said street, in a sum of money proportionate to the benefit received; and that should any person or persons so assessed be in any wise aggrieved, application should be made to the city council for redress: and *whereas*, Robert Lindsay, William Turpin, and Adam Tunno, as administrator to the estate of James Sommers, have, by their several petitions to the Legislature, set forth and alledged, that the enforcement of the said Act has operated considerably to their injury, by means of the said street being laid out and made through their lands, in conformity to the plan thereof, adopted by the city council: that they have applied to the city council for relief, but without what, in their opinions, was an adequate effect; and that on application being made to the court of common pleas for a prohibition to issue, the judges of the said court were divided in their opinions on the subject: and *whereas*, it is the opinion of the Legislature, that the most adequate method of determining the damages sustained by the said petitioners, or whether they are entitled to any redress or not, will be by the verdict of a jury. In

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order, therefore, that the said Robert Lindsay, William Turpin, and the estate of James Sommers, deceased, may be redressed and relieved in the premises, as far as in justice and equity they ought,

I. *Be it enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the judges of the court of common pleas of the State, are hereby authorized and directed, as soon as may be after the passing of this Act, to order the sheriff of the district of Charleston to summon from the district a jury, or juries, as the cases may require, and cause them to be empannelled in manner and form directed by law; and the said court, together with the jury or juries so summoned and empannelled, are hereby required to investigate the damages sustained by the said Robert Lindsay, William Turpin, and the estate of James Sommers, deceased, on account of the said street being made, laid out and continued through their lands; and the said jury or juries to determine the same by their verdict or verdicts; and if the said verdict or verdicts be in favor of the said parties, or either of them, that then the said court do order the amount of the said verdict or verdicts be placed to the credits of them, or either of them, in whose favor the same may be found, in the books of the city council of Charleston; and the city council of Charleston are hereby required, within eighteen months after the passing of this Act, to provide for the payment of the amount of the said verdict or verdicts, and discharge the same, from such funds and in such manner as they shall think most proper to appropriate and devise; *provided*, that nothing in this Act be construed so as in any wise to effect the assessments made by the commissioners appointed for laying off, making and continuing East Bay street in conformity to the aforementioned Act.

II. *And be it further enacted* by the authority aforesaid, That the land laid off by law for the continuation of East Bay, be vested in the city of Charleston, and it shall and may be lawful for the city council to convey to the proprietors of the adjacent lots, such parts of the land formerly laid out by law for East Bay street, as may not be wanted for the street, as at present laid out, and as may be necessary to continue a front on the street, as at present laid out, to those who had a front on the same, as formerly laid out, they paying for the same the value at which it shall be appraised by a jury impanelled as aforesaid.

In the Senate House, the sixteenth day of December, in the year of our Lord one thousand seven hundred and ninety-seven, and in the twenty-second year of the Independence of the United States of America.

DAVID RAMSAY, *President of the Senate.*

ROBERT BARNWELL, *Speaker of the House of Representatives.*

AN ACT TO AUTHORIZE THE CITY COUNCIL OF CHARLESTON TO IMPOSE AND LEVY A TAX ON THE LOTS ON SULLIVAN'S ISLAND, TO DEFRAY THE COST OF ERECTING A PEST HOUSE ON THE NORTH-EAST POINT OF JAMES'S ISLAND. No. 1713.

WHEREAS, the intendant and wardens of the city of Charleston have erected a pest house on the north-east point of James's Island, at an

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expense of five thousand three hundred dollars, under authority of an Act of the Legislature; and in pursuance of the direction of the said Act, have made sale of the Lazaretto on Sullivan's Island, and have also levied an assessment on the lots of the same of thirteen dollars each, the proceeds whereof have been applied towards erecting of the said buildings. But inasmuch as the sums arising therefrom have fallen short of the expences incurred thereby,

I. *Be it therefore enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the intendant and wardens of Charleston be, and they are hereby, empowered to impose and levy a further tax or assessment on the lots on Sullivan's Island, to defray the expenses already incurred and yet to be incurred for the finishing of the same: *provided*, that the tax or assessment be proportioned to the comparative value and improvement of the said lots; *and provided, also*, that no title conveyed under this Act, by reason of such tax, shall be more effectual than that under which the present occupants hold their respective lots.

II. *And be it further enacted* by the authority aforesaid, That every owner of a lot of land on Sullivan's Island, whether the same be improved or not, shall be, and the same is hereby, made liable to such tax or assessment as may be imposed thereon by the city council of Charleston, for defraying the expense of building the said pest-house; and if any owner of any lot shall neglect or refuse to pay the assessment made as aforesaid, on such day as shall be fixed for the payment of the same, by the said city council, the said city council shall cause a warrant of distress to issue against any goods or chattels that may be found on the premises, and the same shall be seized and publicly sold, and so much deducted from the amount of sales as will be necessary to pay the assessment aforesaid, and also the costs and charges of such seizure and sale, paying the overplus, if any, to the person whose goods and chattels have been so seized; and if no goods or chattels can be found on the premises, the said city council shall proceed to sell such right and title as the party in default may have in the said lot, returning the overplus in manner as above directed.

III. *And be it further enacted* by the authority aforesaid, That every tenant or occupant of any house or lot on Sullivan's Island, shall be liable to pay the assessment aforesaid; *provided, nevertheless*, that if he should voluntarily pay the same, or should have his goods, chattels or effects seized and sold in pursuance of this Act, it shall be lawful for such tenant or occupant to deduct the same from the rent which shall or may become due.

In the Senate House, the eighteenth day of December, in the year of our Lord one thousand seven hundred and ninety-nine, and in the twenty-fourth year of the Independence of the United States of America.

JOHN WARD, *President of the Senate.*

WILLIAM JOHNSON, Jr., *Speaker of the House of Representatives.*

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AN ACT TO PREVENT THE OPENING OF STREETS, LANES, ALLEYS, No. 1724.
AND COURTS, WITHIN THE CITY OF CHARLESTON, WITHOUT PERMIS-
SION SPECIALLY OBTAINED.

WHEREAS, narrow and confined streets, lanes and alleys, are disadvantageous to every city, exposing the buildings so situated to greater danger, by fire, and the inhabitants thereof, by close and confined air, to malignant diseases; and moreover, do greatly obstruct the free passage of persons and carriages; *and whereas*, the corporation of Charleston can impose no penalty which would be sufficient to prevent persons from acting in opposition to the regulations intended to be prescribed by this Act;

Preamble.

I. *Be it therefore enacted*, by the Honorable the Senate and the House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That from and after the passing of this Act, no street, lane, alley or court, shall be opened, laid out or established, within any part of the city of Charleston, until the design of the same shall have been previously submitted to the commissioners of the streets, who are hereby required, within ten days after application to them made as aforesaid, to view such intended street, lane, alley or court, and report thereon, with their opinions thereof, to the city council; and if the said city council shall find that such intended street, lane, alley or court, possesses a sufficient passage-way, and that the same will not be incommodious or prejudicial to the citizens, such street, lane, alley or court, shall then be opened, and forever thereafter be deemed, held and taken, as a public street.

Regulations as to opening new streets, &c.

II. *And be it further enacted* by the authority aforesaid, That no person or persons, holding any freehold or lease-hold estate, or by any other right or title whatever in the occupancy of land, shall at any time hereafter lay out, open, or establish any street, lane, alley or court, contrary to the regulations hereby intended; and every such owner, or other person interested in the occupancy of any land, so violating the provisions of this Act, shall incur a penalty of any sum not exceeding forty dollars for each and every week the same shall be and remain open; which said penalty shall be recoverable in the court of common pleas.

Penalty.

In the Senate House, the twenty-first day of December, in the year of our Lord one thousand seven hundred and ninety-nine, and in the twenty-fourth year of the Independence of the United States of America.

JOHN WARD, *President of the Senate.*

WM. JOHNSON, Jr. *Speaker of the House of Representatives.*

AN ACT TO COMPENSATE THE HEIRS AND DEVISEES OF PETER PORCH- No. 1731.
ER, DECEASED, FOR CERTAIN PROPERTY THEREIN MENTIONED.

WHEREAS, the commissioners appointed in and by an Act of the Legislature, passed the twenty-second day of March, one thousand seven hundred and eighty-five, for the Parish road of St. Philip and St. Michael, were authorized to lay out a road on Charleston Neck, to run in a strait line with Meeting-street continued, until it should intersect the high road;

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and whereas, the said commissioners, in pursuance of the said Act, did lay out a road which took off a large proportion of a lot belonging to the heirs and devisees of Peter Porcher, deceased, for which it is reasonable they should receive an equivalent.

I. *Be it therefore enacted* by the honorable the Senate and the House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That Nathaniel Russell, Daniel Cannon and William Johnson, senior, Esqrs. be appointed commissioners to ascertain what compensation will be sufficient to indemnify the said heirs and devisees of Peter Porcher, deceased, for the injury aforesaid; and that when the same shall be ascertained by the said commissioners, or a majority of them, it shall be raised by an assessment, to be made on the taxable property in the city of Charleston.

In the Senate House, the twenty first day of December, in the year of our Lord one thousand seven hundred and ninety-nine, and in the twenty-fourth year of the Independence of the United States of America.

JOHN WARD, *President of the Senate.*

WM. JOHNSON, Jr. *Speaker of the House of Representatives.*

No. 1783. AN ACT TO APPOINT COMMISSIONERS TO ASSESS SUCH PARTS OF A LOT OF LAND IN CHARLESTON, AS ARE NECESSARY TO WIDEN EAST BAY-STREET; AND TO PERMIT THE CITY COUNCIL TO ENJOY THE SAME AS A PUBLIC STREET, ON THE PAYMENT OF THE SUM ASSESSED AS ITS VALUE.

Preamble. WHEREAS, the city council of Charleston have, by their petition, represented that they are desirous of widening East Bay-street, from Craven's bastion to the corner of Guignard-street, and that all the proprietors of the lands adjoining, except the heirs of Robert Raper, deceased, have, for the purpose aforesaid, agreed to make a voluntary cession of their individual rights; and it being further represented that the mental derangement of one of the heirs of the said Robert Raper, deceased, precludes him from entering into any valid contract in the subject matter, and it being of great importance to the community to carry into effect the intention of the city council,

Assessors appointed. I. *Be it therefore enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the Honorable William Johnson, Jun. Thos. Raper, and John Dawson, Sen., shall be, and they are hereby appointed, commissioners to value and appraise such part or parts of the lot late the property of Robert Raper, deceased, situate, lying, and being in the city of Charleston aforesaid, bounding eastwardly on East Bay-street, southwardly on Ellery-street, and northwardly on lands of Charles Cotesworth Pinckney, as may be requisite and necessary to continue or widen East Bay-street aforesaid, agreeably to the plan proposed by the city council of Charleston; and that on payment by the city council aforesaid, of the sum so to be assessed or awarded by the said commissioners, or by a majority

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of them, into the public treasury of this State, for the use of the heirs or representatives of the said Robert Raper, deceased, such payment shall enure, and is hereby declared, to operate a good and indefeasable title to the said city council, of all such parts of the said lot of land as shall or may be so assessed and paid for as aforesaid; and the better to identify and firmly secure the right of the said city council to the said premises, the said commissioners herein before named, or a majority of them, are hereby required to make their award or assessment, as aforesaid, on a platt ^{Plat to be} of the lot late the property of the said Robert Raper, deceased, particularly ^{made.} specifying and describing, by natural or artificial marks and bounds, the specific part or parts of the said lot so assessed and intended to be vested in the city council as aforesaid; and that the said city council do also cause to be endorsed on the said platt, under the award aforesaid, the receipt of the treasurer of the State, specifying the amount of the consideration money paid by them as aforesaid, and the day when such payment shall be made; which platt, together with the said endorsement, they, the said city council, shall, within one month thereafter, cause to be registered in the office of register of mesne conveyances for Charleston district.

II. *And be it further enacted* by the authority aforesaid, That the lands so to be added to East Bay-street aforesaid, either by purchase or voluntary cession, together with the present public street, shall forever continue and be kept open as a public highway or street.

III. *And be it further enacted* by the authority aforesaid, That it shall and may be lawful for either of the treasurers of the State to receive and acknowledge the receipt of the money so to be paid by the city council as aforesaid, and on receipt thereof to keep the same as a deposit to the credit of such person or persons as may be legally authorized to receive the same; and on proper application, without fee or reward, to pay over the said monies to the heirs of the said Robert Raper, or their representatives, or the representatives of any individual heir of the said Robert Raper; such representative of any individual heir binding his principal faithfully to account with his co-heirs, for his or their shares or proportions of the money so to be received as aforesaid. ^{The purchase money, how to be paid.}

In the Senate House, the nineteenth day of December, in the year of our Lord one thousand eight hundred and one, and in the twenty-sixth year of the Independence of the United States of America.

JOHN WARD, *President of the Senate.*

THODORE GAILLIARD, *Speaker of the House of Representatives.*

AN ACT TO CONFIRM THE BYE-LAWS OF THE PROTESTANT EPISCOPAL No. 1793.
CHURCH OF SAINT PHILIP, IN CHARLESTON, AND TO ENABLE THE CON-
GREGATION THEREOF TO ALTER THE SAME, OR SUBSTITUTE NEW BYE-LAWS,
UNDER CERTAIN RESTRICTIONS.

WHEREAS, doubts have been entertained by some of the congregation of the Protestant Episcopal Church of Saint Philip, in Charleston, of the validity of the byelaws hereinafter mentioned, and the vestry, wardens and Preamble.

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members of the said church have petitioned the Legislature to pass an Act for the purpose of quieting such doubts and confirming the said bye-laws.

Bye-laws es-
tablished.

I. *Be it therefore enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the fifteen bye-laws, entitled the constitutional form of Government of the Episcopal Church of Saint Philip, in Charleston, which were approved and agreed to in a congregational meeting of the said Church, on the thirtieth day of October, in the year of our Lord one thousand seven hundred and ninety-seven, be, and the same are hereby declared, good, valid and binding rules or bye-laws of the corporation of the said Church; any law or usage to the contrary thereof in any wise notwithstanding: *provided*, that such bye-law or bye-laws be not repugnant to the laws of the land.

How they may
be altered.

II. *And be it further enacted* by the authority aforesaid, That from and after the passing of this Act, it shall be lawful for the vestry, wardens and members of the said church, at any time, to alter or abolish all or any of the said bye-laws, and such new bye-laws to make in the place of the same, as may best conduce to the spiritual and temporal interests of the said Church; *provided*, that the vestry and wardens shall not be precluded from, or abridged in, their right of regulating, as heretofore, the ordinary concerns of the said Church, by any alteration of a bye-law, or by any new bye-law to be made in pursuance of this Act.

III. *And be it further enacted* by the authority aforesaid, That the corporation of the aforesaid Church may, and they are hereby empowered to, purchase, accept and hold, in addition to what they now own, as much real or personal property as may, in the whole, yield them the annual income of fifteen hundred pounds; any law to the contrary thereof notwithstanding.

In the Senate House, the eighteenth day of December, in the year of our Lord one thousand eight hundred and two, and in the twenty-seventh year of the independence of the United States of America

JOHN WARD, *President of the Senate.*

ROBERT STARK, *Speaker of the House of Representatives.*

No. 1812. AN ACT TO AMEND AN ACT ENTITLED "AN ACT ESTABLISHING A TOBACCO INSPECTION IN THE CITY OF CHARLESTON."

WHEREAS, the funds intended to carry into effect the institution of the tobacco inspection in the city of Charleston, have become entirely inadequate for that purpose;

I. *Be it therefore enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the commissioners of the tobacco inspection in the city of Charleston, be, and they are hereby, authorized and empowered to collect a sum not exceeding ten cents per week, as storage, for every hog-head of tobacco that may remain in store for a longer time than twelve months in the ware house of said inspection.

II. *And whereas*, the present mode of selling tobacco occasions losses of considerable amount, by reason of the holders of tobacco-notes retaining

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the same for several years, and the tobacco being necessarily delivered to the holders of such notes, without weighing, or fairly ascertaining the loss which the tobacco has sustained from being kept on hand for so great a length of time; for remedy whereof, *Be it enacted* by the authority aforesaid, That from and immediately after the passing of this Act, all tobacco which shall be exposed to sale in the city of Charleston, shall be weighed; *provided*, more than twelve months have elapsed from the time of its inspection; and that the sum of twelve and one half cents be paid on each hogshead, by the purchaser, for weighing the same.

II. And *whereas*, by an Act of the General Assembly, passed the eighteenth day of December, in the year of our Lord one thousand eight hundred and two, the commissioners of the tobacco inspection in the city of Charleston were authorized to receive, on storage, cotton and other produce therein mentioned, but no provision was made, or compensation allowed, for weighing and storing the same; *Be it therefore enacted* by the authority aforesaid, That the sum of six cents shall be allowed on every bale of cotton received, for storage and turning out, and six cents for weighing, if required, and two cents for every hundred weight of any other produce, as a compensation for storage and weighing of the same.

In the Senate House, the seventeenth day of December, in the year of our Lord one thousand eight hundred and three, and of the Independence of the United States of America the twenty-eighth.

JOHN GAILLIARD, *President of the Senate.*

ROBERT STARK, *Speaker of the House of Representatives.*

AN ACT TO RELIEVE THE INHABITANTS OF CHARLESTON DISTRICT FROM THE UNEQUAL DUTY OF SERVING ON JURIES, AND TO MAKE THEIR DUTY UNIFORM WITH THAT OF THE CITIZENS OF OTHER DISTRICTS. No. 1816.

WHEREAS, but one set of jurors are now drawn and summoned to serve during the whole term for Charleston district, although that term continues for five weeks together, and in all other districts in the State no man can be made to serve longer than six days together, in consequence whereof, all men engaged in private pursuits, and all who can afford to pay the fine, prefer paying that penalty rather than to neglect their business, or submit to confinement for so long a time; by reason whereof, the juries in that district are generally composed of such persons as are least qualified to discharge the important trusts committed to them by the law; for remedy whereof,

Preamble.

I. *Be it enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That at every court hereafter to be held for that district, as many petit and common pleas jurors shall be drawn for each week during which the court may by law be allowed to sit, as are now drawn for the whole term, so that the same persons shall never be required to serve longer than six days in the same term; and immediately after the adjournment of each court, the clerk of the said court shall issue a separate *venire* for Jurors, how to be drawn.

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each week, during the time that the said court next succeeding may be allowed by law to sit; and the summonses issued for the jurors aforesaid, shall mention the day and the hour when they are to appear, and that they are to serve no longer than six days.

Penalty on
defaulters.

II. *And be it further enacted* by the authority aforesaid, That in case any person who shall be drawn a juror as aforesaid, shall make default, that each juror so making default, shall be liable to pay a fine not exceeding fifty dollars, nor under twenty dollars, in addition to the percentage on his or their annual tax, as now by law directed to be levied on defaulting jurors.

In the Senate House, the seventeenth day of December, in the year of our Lord one thousand eight hundred and three, and in the twenty-eighth year of American Independence.

President of the Senate.

Speaker of the House of Representatives.

(The signatures are wanting to this Act.)

No. 1830. AN ACT TO AUTHORIZE THE CITY COUNCIL OF CHARLESTON, WITH THE CONSENT OF CONGRESS, TO IMPOSE AND LEVY A DUTY ON THE TONNAGE OF SHIPS AND VESSELS, FOR THE PURPOSE THEREIN MENTIONED.

Preamble.

WHEREAS, the city council of Charleston, by their memorial to the Legislature of this State, have, amongst other things, set forth, that a proposition, authorized by the President of the United States, has been made to the said city council, to pay over to them the sum of fifteen thousand dollars, for building a Marine Hospital, in the vicinity of Charleston; and likewise to pay over to them all the hospital monies to be collected in the said port, on their taking upon themselves the direction of the said hospital, and defraying all expenses attending the same; which sums the said city council state to be altogether inadequate for the building and supporting the said hospital, but that, for the reasons in their memorial mentioned, they have, nevertheless, agreed to assume the superintendence, direction and support of the said marine hospital, to accept of the sums offered for building and supporting the same, and to rely on the Legislature of this State to pass an Act, and on Congress to assent thereto, for authorizing the said city council to impose and levy a duty on the tonnage of ships and vessels, to supply any deficiency which may arise in building and supporting the said hospital: and the said city council have therefore prayed that an Act may be passed, authorizing them to impose and levy a duty, not exceeding six cents per ton, on ships and vessels, for the purpose aforesaid.

Tonnage duty
to be imposed.

I. *Be it therefore enacted*, by the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That whenever the consent of Congress shall be given to this Act, the city council of Charleston shall be, and they are hereby, authorized and empowered to impose and levy a duty, not exceeding six cents per ton, on all ships and vessels of the United States, which shall arrive and

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be entered in the port of Charleston, from any foreign port or place whatsoever; and a like duty, each time of entry, on all ships and vessels of the United States, not licensed, which shall arrive and be entered in the said port, with goods, wares and merchandize, or bound from another State, other than an adjoining State on the sea coast, or on a navigable river; and also a like duty on all ships and vessels which shall be entered in the said port, having a license to trade between the different districts of the United States, or to carry on the bank or whale fisheries, whilst employed therein, to be paid on the said last mentioned ships and vessels not more than once a year; which said duty shall be collected and paid in such way and manner as the city council of Charleston shall direct and appoint, and shall be appropriated by them in supplying any deficiency which may arise in erecting and supporting an hospital in the vicinity of Charleston, for the reception and relief of sick and disabled seamen.

In the Senate House, December the twenty-first, in the year of our Lord one thousand eight hundred and four, and in the twenty-ninth year of the Independence of the United States of America.

JOHN WARD, *President of the Senate.*

W. C. PINCKNEY, *Speaker of the House of Representatives.*

AN ACT TO FIX THE RATES OF STORAGE OF COTTON IN CHARLESTON. No. 1851.

I. *Be it enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That immediately after the passing of this Act, the rates of storage of cotton shall not exceed twelve and a half cents per week, for each bale of cotton.

In the Senate House, the nineteenth day of December, in the year of our Lord one thousand eight hundred and five, and in the thirtieth year of the Independence of the United States of America.

ROBT. BARNWELL, *President of the Senate.*

JOSEPH ALSTON, *Speaker of the House of Representatives.*

AN ACT TO REPEAL AN ORDINANCE OF THE CITY COUNCIL OF No. 1852.
CHARLESTON.

WHEREAS, by an ordinance of the city council of Charleston, ordained on the sixteenth day of July, in the year one thousand eight hundred and five, imposing duties and laying restrictions upon the vending of corn, peas, oats and other grain carried for sale to the said city of Charleston, which have been found to be extremely oppressive and burthensome to the agricultural interest of this State; *and whereas*, all the by-laws, rules and ordinances made by the said city council of

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Charleston, are subject to the revisal, alteration or appeal of the Legislature.

I. *Be it therefore enacted* by the honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the said ordinance of the city council of Charleston, ordained on the said sixteenth day of July, in the year one thousand eight hundred and five, and all other ordinances imposing duties and laying restrictions on the vending of corn, peas, oats and other grain, carried for sale to the said city of Charleston, be, and the same is hereby, repealed.

In the Senate House, the nineteenth day of December, in the year of our Lord one thousand eight hundred and five, and in the thirtieth year of the Independence of the United States of America.

ROBT. BARNWELL, *President of the Senate.*

JOSEPH ALSTON, *Speaker of the House of Representatives.*

No 1864. AN ACT TO AUTHORIZE THE CITY COUNCIL OF CHARLESTON TO ASCERTAIN AND DEFINE THE WARDS WITHIN THAT CITY; TO APPOINT AN ESCHEATOR; AND FOR OTHER PURPOSES THEREIN MENTIONED.

WHEREAS, it is necessary for the internal regulation of the city of Charleston, that the boundaries of its wards be more accurately defined and adjusted than has hitherto been done.

I. *Be it therefore enacted* by the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the intendant and wardens of the said city of Charleston, be, and they are hereby, impowered to ascertain and define, either by commissioners or in any other manner they may think expedient, the respective boundaries of the wards within that city.

II. *And be it further enacted* by the authority aforesaid, That the city council of Charleston be, and they are hereby, authorized, as escheators, to appoint a deputy escheator.

In the Senate House, the nineteenth day of December, in the year of our Lord one thousand eight hundred and five, and in the thirtieth year of the Independence of the United States of America.

ROBT. BARNWELL, *President of the Senate.*

JOSEPH ALSTON, *Speaker of the House of Representatives.*

No 1889. AN ACT TO AMEND AN ACT ENTITLED AN ACT FOR AMENDING AN ACT ENTITLED AN ACT FOR REGULATING AND ASCERTAINING THE RATES OF WHARFAGE OF SHIPS AND MERCHANDIZE; AND ALSO, FOR ASCERTAINING THE RATES OF STORAGE IN CHARLESTON; AND FOR REPEALING THE FIRST CLAUSE OF THE SAID ACT, OR ANY OTHER ACTS AS ARE REPUGNANT THERETO.

WHEREAS, it is proper and expedient to alter and amend an Act regulating and ascertaining the rates of wharfage and storage in Charleston,

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passed the twenty-eighth day of March, in the year of our Lord one thousand seven hundred and seventy-eight.

I. *Be it therefore enacted* by the honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That immediately from and after the passing of this Act, the following rates and sums respectively shall be paid, and no greater shall be demanded or exacted by owners of wharves or any other persons, for wharfage of ships or vessels, or for landing, weighing and storing of the articles of rice and cotton upon the wharves in Charleston, to wit:—for landing every barrel of rice, four cents per barrel; for weighing every barrel of rice, six cents per barrel; for shipping every barrel of rice, four cents per barrel; for storing every barrel of rice, eight cents per week, for the first and last weeks, and four cents for each intermediate week, and storage of half barrels at half price for whole barrels; for landing every bale or case of cotton, four cents per bale or case; for weighing every bale or case of cotton, six cents per bale or case; for shipping every bale or case of cotton, four cents per bale or case; for storing every bale or case of cotton, eight cents per bale or case, for the first and last weeks, and four cents per week for each intermediate week; for the dockage of every vessel, (coasters excepted,) loading or unloading, of or under one hundred tons, fifty cents per day; from one hundred tons burthen to or under one hundred and fifty tons burthen, seventy-five cents per day; for every vessel above one hundred and fifty tons burthen, one dollar per day; for every idle vessel, double dockage per day.

Rates of storage.

II. *And be it enacted* by the authority aforesaid, That so much of the above mentioned Act, and any other Acts as are repugnant thereto, be, and the same is hereby, repealed.

In the Senate House, the nineteenth day of December, in the year of our Lord one thousand eight hundred and seven, and of the Independence of the United States of America, the thirty-second.

WM. SMITH, *President of the Senate.*

JOSEPH ALSTON, *Speaker of the House of Representatives.*

AN ACT TO APPOINT COMMISSIONERS TO ASSESS SUCH PARTS OF LOTS OF LAND IN CHARLESTON, AS ARE NECESSARY TO WIDEN MARKET-STREET; AND TO PERMIT THE CITY COUNCIL TO ENJOY THE SAME AS A PUBLIC STREET, ON PAYMENT OF THE SUM ASSESSED AS ITS VALUE. No. 1894.

WHEREAS, the city council of Charleston have, by their petition, represented that they are desirous of widening Market-street, from Meeting-street to the channel of Cooper river, and that all the proprietors of lands adjoining, excepting so much of it as is contiguous to William Raper's land, have, for the purpose aforesaid, made a voluntary cession of their individual rights; and it being further represented that the mental derangement of the said William Raper precludes him from entering into any valid contract in the subject matter, and it being of great importance to the community to carry into effect the intention of the city council;

Preamble.

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*Acts relating to the City of Charleston.*Assessors
appointed.

I. *Be it therefore enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the attorney of said W. Raper, Wm. Pritchard, Sen. and Floreau C. Mey, shall be, and they are hereby appointed, commissioners to value and appraise such part or parts of the lands of the said William Raper, situate, lying and being in the city of Charleston aforesaid, (which still projects on the said Market-street,) to wit: the part of the easternmost lot on the north line, seventy-eight feet; on the east line, thirty-two feet; on the south line fronting Market-street, seventy-eight feet; and on the west line fronting Raper-street, twenty-eight feet six inches; the part of the westernmost lot on the north line, forty-four feet; on the east line, fronting on Raper-street, twenty-seven feet six inches; on the south line, fronting on Market-street, forty-four feet; and on the west line, twenty-five feet nine inches—in order to continue and widen Market-street aforesaid, agreeably to the plan proposed by the city council of Charleston; and that on payment by the city council aforesaid, of the sum so to be assessed or awarded by the said commissioners, or by a majority of them, into the public treasury of this State, for the use of the said William Raper, such payment shall enure, and is hereby declared to operate a good and indefeasible title to all such parts of the said described lands as shall or may be assessed and paid for as aforesaid. And the better to identify and firmly secure the right of the said city council to the said premises, the said commissioners herein before named, or a majority of them, are hereby required to make their award or assessment as aforesaid, on a plat of the lands of the said William Raper, particularly specifying and describing, by natural or artificial marks and bounds, the specific part or parts of the said lands so assessed and intended to be vested in the said city council as aforesaid; and that the said city council do also cause to be endorsed on the said plat, under the award aforesaid, the receipt of the treasurer of the State, specifying the amount of the consideration money paid by them as aforesaid, and the day when such payment shall be made; which plat, together with the said endorsements, they, the said city council, shall, within six months thereafter, cause to be registered in the office of the register of mesne conveyances for Charleston district.

II. *And be it further enacted* by the authority aforesaid, That the lands so to be added to Market-street aforesaid, either by purchase or voluntary cession, together with the present public street, shall forever continue and be kept open as a public highway or street.

Assessment to
be paid to
Treasurer.

III. *And be it further enacted* by the authority aforesaid, That it shall and may be lawful for either of the treasurers of the State to receive and acknowledge the receipt of the money so to be paid by the city council aforesaid; and on the receipt thereof, to keep the same as a deposit to the credit of the said William Raper, and on proper application, without fee or reward, to pay over the said monies to such person or persons, (on behalf of the said William Raper,) as may be legally authorized to receive the same.

In the Senate House, the nineteenth day of December, in the year of our Lord one thousand eight hundred and seven, and in the thirty-second year of the Independence of the United States of America.

WM. SMITH, *President of the Senate.*JOSEPH ALSTON, *Speaker of the House of Representatives.*

Acts relating to the City of Charleston.

A. D. 1808.

AN ACT TO ALTER AND AMEND "AN ACT TO INCORPORATE CHARLESTON;" AND FOR OTHER PURPOSES THEREIN MENTIONED. No. 1921.

I. *Be it enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That from and after the passing of this Act, the intendant of the city of Charleston shall be elected from among the corporators of the city of Charleston, who shall be qualified as hereafter prescribed, on the third Monday in September, in each and every year; and whosoever shall have the greatest number of votes, shall be duly elected.

Intendant, how to be elected.

II. *And be it further enacted* by the authority aforesaid, That the managers to conduct the said election shall be appointed by the city council of Charleston, and shall hold the same at the court house and the centre market in the said city of Charleston, on the day aforesaid, in each and every year, from the hour of nine o'clock to the hour of twelve o'clock in the forenoon, (inclusive of the latter,) and from the hour of two o'clock to the hour of five o'clock in the afternoon, (inclusive of the latter.)

Election, when to be held.

III. *And be it further enacted* by the authority aforesaid, That in all cases in which the said election shall not take place at the time aforesaid, and in case of vacancy from death, resignation, or any other cause, an election shall be held by managers appointed as aforesaid, at the places aforesaid, on such day as the said city council shall appoint, during the hours aforesaid; and the person elected shall serve until the next general election, which shall be held according to the provisions aforesaid.

In case of vacancy.

IV. *And be it further enacted* by the authority aforesaid, That no person shall be eligible to the office of intendant, unless he be a free white man, a citizen of the United States, of the age of twenty-five years, and shall have resided within the said city three years previous to his election, and be at the time of his election a resident therein, and unless he be seized and possessed, in his own right, of a freehold estate, situate within the said city, of the value of three hundred pounds sterling, clear of debt; and that no person shall in future be eligible to the office of warden, unless he be a free white man, a citizen of the United States, of the age of twenty-one years, and shall have resided within the said city three years previous to his election, and be at the time of his election a resident of the ward for which he shall be elected, and unless he be seized and possessed, in his own right, of a freehold estate, situate within the said city, of the value of one hundred and fifty pounds sterling, clear of debt.

Qualification of Intendant and Warden.

V. *And be it further enacted* by the authority aforesaid, That any free white man, of the age of twenty-one years, being a citizen of this State, and residing within the said city at the time of the election, who shall have actually contributed and paid the sum of three shillings sterling, in the nature of a tax, or in nature of a premium, for license to practice or pursue any trade, profession or business, in or for the preceding year, or the year in which such election shall take place, towards the support of the corporation of the said city, shall be entitled to vote for intendant and wardens.

Qualification of voters.

VI. *And be it further enacted* by the authority aforesaid, That the intendant of the said city shall, in addition to the powers heretofore given by law, be authorized to exercise, within the said city, all the powers which now are or may be incident to the office of justice of the quorum, and that he may, by compulsory process, enforce the attendance of witnesses who may be required to give testimony before council, on any subject

Addition to powers of the Intendant.

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matter within the jurisdiction of the corporation of Charleston.

VII. *And be it further enacted* by the authority aforessid, That so much of the Act entitled "An Act to incorporate Charleston," as is repugnant to this Act, be, and the same is hereby, repealed.

In the Senate House, the seventeenth day of December, in the year of our Lord one thousand eight hundred and eight, and thirty-third year of the Independence of the United States of America.

SAMUEL WARREN, *President of the Senate.*

JOSEPH ALSTON, *Speaker of the House of Representatives.*

No. 1938. AN ACT TO ALTER AND AMEND "AN ACT TO INCORPORATE CHARLESTON," BY AN EQUAL DIVISION OF WARDS, AND DIRECTING THE REPRESENTATION THEREOF IN CITY COUNCIL TO BE APPORTIONED ON THE PRINCIPLE OF POPULATION AND TAXATION; AND FOR OTHER PURPOSES THEREIN MENTIONED.

WHEREAS, the present system of electing the wardens for the city of Charleston, is in its operation oppressive, inasmuch as relates to the unequal division of the wards without regard to population or taxation, and whereby the citizens are unequally represented; for remedy thereof,

I. *Be it enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That on or before the first day of August next ensuing, it shall be the duty of the intendant and wardens of the city of Charleston, to divide, or cause to be divided, (without regard to the former wards,) the whole of the city of Charleston into four divisions or wards; the inhabitants of each of which divisions or wards shall elect such number of wardens as such division or ward shall be entitled to, on equal principles of population and the city taxation of the present year; *Provided always*, the whole number of wardens for the aforesaid city shall not exceed twelve, whose qualifications shall be the same as directed in an Act passed on the seventeenth day of December, in the year of our Lord one thousand eight hundred and eight.

II. *And be it further enacted* by the authority aforesaid, That it shall be the duty of the intendant and wardens of the aforesaid city, every seven years thereafter, to apportion the ward representation, precisely on the principles above directed.

III. *And be it further enacted* by the authority aforesaid, That an election for wardens shall be held on the first Monday of September next, and every year thereafter, at such places and hours as the intendant and wardens for the time being may direct, within the limits of each division or ward.

IV. *And be it further enacted* by the authority aforesaid, That all Acts or clauses of Acts contrary or repugnant to the provisions of this Act, be, and the same are hereby, repealed.

In the Senate House, the nineteenth day of December, in the year of our Lord one thousand eight hundred and nine, and in the thirty-fourth year of the Independence of the United States of America.

SAMUEL WARREN, *President of the Senate.*

JOSEPH ALSTON, *Speaker of the House of Representatives.*

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A. D. 1809.

AN ACT TO AUTHORIZE THE CITY COUNCIL OF CHARLESTON TO
ERECT AND BUILD, WITHIN THE INCLOSURE OF THE CITY BURIAL
GROUND, LYING WITHOUT THE CITY, ON THE BORDERS OF ASHLEY
RIVER, A SUBSTANTIAL BRICK MAGAZINE, FOR THE STORING OF GUN
POWDER. No. 1941.

I. *Be it enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That from and after the passing of this Act, the city council of Charleston be, and they are hereby, authorized and impowered to construct, build and erect a substantial brick magazine, within the inclosure of the city burial ground without the city, near the banks of Ashley river; which said magazine, when built, shall be under the immediate management and control of the said city council of Charleston, or of such person or persons as the city council may from time to time appoint.

II. *And be it further enacted* by the authority aforesaid, That the city council are hereby authorized and impowered to impose the same rates upon the storing of gun powder in the said magazine, as are now imposed by law upon the storage of gun powder in the magazine at the ship-yard on Charleston Neck.

III. *And be it further enacted* by the authority aforesaid, That persons living in Charleston may store their gun powder in the said magazine hereby directed to be built; any law, usage or custom, to the contrary in any wise notwithstanding.

In the Senate House, the nineteenth day of December, in the year of our Lord one thousand eight hundred and nine, and the thirty-fourth year of the Sovereignty and Independence of the United States of America.

SAMUEL WARREN, *President of the Senate.*

JOSEPH ALSTON, *Speaker of the House of Representatives.*

AN ACT AUTHORIZING THE PRESIDENT AND TRUSTEES OF THE SECOND
PRESBYTERIAN CHURCH OF THE CITY AND SUBURBS OF CHARLESTON,
TO RAISE IN AID OF THEIR FUNDS, FOR THE BUILDING OF A CHURCH,
A SUM OF MONEY, BY WAY OF LOTTERY. No. 1952.

WHEREAS, the President and Trustees of an association, formed for the promotion of religion, and the establishment and building of the second Presbyterian church of the city and suburbs of Charleston, in behalf of themselves and others have, by their petition to the Legislature, set forth that their funds are unequal to the completion of the said church, and praying that they may be authorized to raise, by one or more lotteries, a sum adequate to the building of the same.

I. *Be it therefore enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the President and Trustees of the said association, or their successors in office, be, and they are hereby, authorized and impowered to raise, in aid of their funds, a sum of money, by one or more

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lotteries, to be conducted in any manner which the President and Trustees, or a majority of them, may think advisable and proper; *provided* that they do not, by said lotteries, raise a sum exceeding twenty thousand dollars.

In the Senate House, the nineteenth day of December, in the year of our Lord one thousand eight hundred and nine, and in the thirty-fourth year of the Independence of the United States of America.

SAMUEL WARREN, *President of the Senate.*

JOSEPH ALSTON, *Speaker of the House of Representatives.*

No. 1971. AN ACT TO AUTHORIZE THE INTENDANT AND WARDENS OF THE CITY OF CHARLESTON, TO WIDEN MOTTE-STREET, AND TO OPEN KINLOCH'S COURT AS A STREET; AND FOR OTHER PURPOSES THEREIN MENTIONED.

Motte-street to be widened. I. *Be it enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the intendant and wardens of the city of Charleston be, and they are hereby, authorized to widen, or cause to be widened, the street called Motte-street, on the east side of the said street, so as to form a right line with the east side of Union-street; and that the said intendant and wardens are hereby to commence the widening of the said street from the corner of Market and Motte-streets, and to continue the work from thence southwardly to Queen-street.

Kinloch's court. II. *Be it further enacted* by the authority aforesaid, That the said intendant and wardens be, and they are hereby, authorized to remove, or cause to be removed, all obstructions at the north end of Kinloch's court, and to keep open the same as a public highway or street.

Assessors to be appointed. III. *Be it enacted* by the authority aforesaid, That six commissioners shall be nominated and appointed by and on the part and behalf of the said intendant and wardens, and the like number by and on the part and behalf of the proprietors of the lots in the said street called Motte-street, and the said court called Kinloch's court; and the said commissioners, or a majority of them, after taking the following oath, to wit: "I do solemnly swear, that I will fairly, impartially, and to the best of my skill, assess the damage that may be sustained by the proprietors on the east side of Motte-street, and the advantages accruing to the proprietors of the west side of said street, and assess the damages sustained by the proprietors of the lot or lots at the north end of Kinloch's court, in opening and keeping the same open as a public street," shall proceed to assess the holders of lots on each side of the said street in due ratio, and to value and appraise such lots, part or parts of lots, as may be necessary to widen the said street, and to open the said court; which lots, or part or parts of lots, shall, on the payment of the sum at which it shall be so valued, be possessed by and vested in the said intendant and wardens forever.

IV. *Be it enacted* by the authority aforesaid, That in all cases where the owners of the lots in said street and Kinloch's court, from which a portion or part has been taken, shall be desirous to dispose of or sell the same, the said intendant and wardens are hereby authorized and required to purchase

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the same, on a valuation or appraisement, to be made in manner and form as is before in this Act prescribed; and the said lots shall be possessed by and vested in the said intendant and wardens forever.

V. *Be it enacted* by the authority aforesaid, That the said intendant and wardens, in all cases where it may appear expedient and practicable, be, and are hereby, authorized to purchase lots for the purpose of giving fronts to owners of lots who would be otherwise deprived of the same, or to lessen the expense of the work, by accepting advantageous offers for the sale of them; *provided nevertheless*, that owners in all cases be compensated by a valuation or appraisement, made in manner and form as is herein before prescribed.

Council may
purchase lots,
&c.

VI. *Be it enacted* by the authority aforesaid, That the lands so to be added to Motte-street and Kinloch's court, together with the present public street and court, shall forever continue and be kept open as public highways or streets; and the said intendant and wardens be, and are hereby, authorized and empowered to name, alter and change the names of, the said streets.

VII. *And be it enacted* by the authority aforesaid, That the several persons who shall or may associate as herein prescribed, for the purpose of widening the street called Union-street, and the alley called Unity alley, in the city of Charleston, and their successors, shall be, and they are hereby, incorporated as a body politic, in deed and in law, by the name of the company for widening of Union-street and Unity alley.

Union-street
and Unity
alley.

VIII. *And be it enacted* by the authority aforesaid, That the said corporation, by their name aforesaid, shall have perpetual succession of officers and members, to be appointed according to the by-laws and regulations which they may establish for the government of the said corporation; and they may have a common seal, with power to break, alter and make new the same, as often as they shall judge expedient.

Powers of the
corporation.

IX. *And be it enacted* by the authority aforesaid, That the said corporation or company shall be able and capable in law to purchase, have, hold, and take, receive, possess, retain and enjoy to itself, in perpetuity or for any term of years, any personal estate or real estate, within the limits of the said street called Union-street, and the said alley called Unity alley, of what kind soever, and to sell, alien and dispose of the same as they may think proper; and by the name aforesaid, to sue and be sued, implead and be impleaded, answer and be answered unto, in any court of law and equity; and to make such rules and by-laws, not repugnant or contrary to the laws of the land, as for the good order and proper government of the said corporation, may by the same be thought expedient or necessary; *provided nevertheless*, that the said real and personal estate shall not exceed five hundred thousand dollars.

X. *And be it further enacted* by the authority aforesaid, That James Nicholson, William Clarkson, Robert Howard, Joseph Johnston and Charles B. Cochran, or a majority of them, be, and are hereby, appointed commissioners to receive subscriptions for the establishment of the company aforesaid, for which purpose they shall meet at the exchange in Charleston, on the second Monday in January next, and there receive the subscriptions of all such persons as shall be desirous of subscribing and associating for the purpose of becoming members of the said corporation.

Commissioners
appointed.

XI. *And be it enacted* by the authority aforesaid, That the said company shall and may cause the street called Union-street, to be widened on the west side, so as to form a right line with the west side of Motte-street, and to widen the alley called Unity alley.

A. D. 1810.

*Acts relating to the City of Charleston.*Company may
purchase land,
&c.

XII. *And be it further enacted* by the authority aforesaid, That the said company shall have power to purchase, for themselves and their successors for ever, such land as may be necessary for the purpose of widening the said street called Union-street, and the said alley called Unity alley; and when the said company and the owners of such land cannot agree for the same, to take such land on a valuation or appraisement, made in the manner and form prescribed by the clause of this Act for the widening of Motte-street; which land shall, on the payment of the sum at which it shall be so valued and appraised, be possessed by and become vested in the said company and their successors for ever; and that the stock and shares may be sold, transferred, assigned and bequeathed by the proprietors, respectively; and in case of their dying intestate, shall go as personal estate, according to law.

Houses to be
built of brick.

XIII. *And be it enacted* by the authority aforesaid, That the said company and proprietors be, and they are hereby, required to erect, or cause to be erected, on the lots in the said street and alley, only buildings of brick or other incombustible materials; *provided*, it shall be at the option of the said proprietors of the lots in the said street or alley, either to conform thereto, or to sell and dispose of their lots to the said company; and the said company be, and they are hereby, required to purchase the same, on a valuation or appraisement, made in the manner and form before specified.

This a public
Act.

XIV. *And be it further enacted* by the authority aforesaid, That if any person shall be sued for any matter or thing done in pursuance of this Act, he may plead the general issue, and give this Act and the special matter in evidence; that this Act shall be deemed and taken to be a public Act.

Charter, in
what case to
cease.

XV. *And be it further enacted* by the authority aforesaid, That all rights and privileges hereby granted to said corporation, together with the charter of incorporation hereby granted, shall cease and determine, unless the persons associating as members of said corporation shall, within six months, commence and prosecute the said work; and if the said company should so forfeit their charter, the intendant and wardens of the city of Charleston shall be, and are hereby, impowered to proceed to widen the said street and alley in manner and form as is before prescribed for the widening of Motte-street.

XVI. *And be it further enacted*, That all Acts or parts of Acts, repugnant to this Act, shall be, and is hereby, repealed.

In the Senate House, the twentieth day of December, in the year of our Lord one thousand eight hundred and ten, and in the thirty-fifth year of the Independence of the United States of America.

SAMUEL WARREN, *President of the Senate.*

JOHN GEDDES, *Speaker of the House of Representatives.*

Acts relating to the City of Charleston.

A. D. 1811.

AN ACT TO AUTHORIZE THE WIDENING OF STATE, LATE MOTTE AND UNION-STREETS, IN THE CITY OF CHARLESTON, IN SUCH MANNER AND UNDER SUCH PROVISIONS AS ARE HEREIN SPECIFIED. No. 1985.

WHEREAS, at the last session of the Legislature of this State, an Act was passed, entitled "An Act to authorize the intendant and wardens of Charleston, to widen Motte-street, and for other purposes;" and whereas, the said Act has proved to be impracticable and inexpedient.

Preamble.

I. *Therefore, be it enacted* by the honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That commissioners herein appointed be, and they are hereby, authorized to widen and lay out State-street, late Motte and Union-streets, in the city of Charleston, in conformity with a plan and plat made by J. Wilson, dated the fifteenth day of November, one thousand eight hundred and eleven, and to be recorded in the office of the Secretary of State, for the information of all concerned.

State-street to be laid out.

II. *And be it further enacted* by the authority aforesaid, That the said commissioners be, and they are hereby, authorized and required to ascertain and assess the damage which may be sustained by the owners of lots situate in the aforesaid streets, or any of them, by reason and in consequence of the widening of the said street; and that the said damage or injury being ascertained by the commissioners aforesaid, the city of Charleston shall be, and it is hereby, required, by the intendant and wardens thereof, to defray one half of the amount of the damage aforesaid, in consideration of the general benefit resulting from the widening of the aforesaid street; and that the other half or moiety of the expense attending the aforesaid measure, be assessed upon the owners of lots in the aforesaid State-street, in consequence of their particular and local advantages resulting therefrom; and that the said owners of lots be, and they are hereby, required to defray one half of the aforesaid assessment.

Compensation to owners of lands used.

III. *And be it further enacted*, That whenever a lot shall have been so much reduced and injured by the widening of the said street, as to be unfit for convenient buildings, and thereby greatly injured, the commissioners shall be empowered and required to take the whole lot at the expense and for the benefit of the city of Charleston; that James Nicholson, Bartholomew Carroll, Thomas Bennet, jr. John Horlbeck, jr. Basil Leneau and Dr. Joseph Kirkland, be, and they are hereby, authorized and empowered to assess and make a true estimate of the damages which shall be sustained by the owners of lots and houses lying on or near the said street, or any other person, by reason of the widening of the said street; one half of which said damages shall be made and paid by the intendant and wardens of the city of Charleston, and the other half to be made and paid by the proprietors of land on both sides of the said street.

Assessors appointed.

IV. *And be it further enacted* by the authority aforesaid, That should any of the persons above named as commissioners, die, remove or decline serving before they shall have assessed the damages aforesaid, then and in that case, his Excellency the Governor for the time being, shall be, and he is hereby, authorized to nominate and appoint some fit and proper person to fill up such vacancy, occasioned by the death, removal or declining to serve, of any of the above named commissioners, or by the death, removal or declining to serve, of any of the commissioners who shall or may be appointed by the Governor in conformity to this Act.

Vacancies, how to be filled.

A. D. 1811.

*Acts relating to the City of Charleston.*This a public
Act.

V. *And be it further enacted* by the authority aforesaid, That this Act shall be deemed and taken as a public Act, and shall and may be given in evidence in any of the courts of Law or Equity in this State, without being specially pleaded ; any thing to the contrary notwithstanding.

VI. *And be it further enacted* by the authority aforesaid, That any and every law or laws contrary or repugnant to this Act, be, and the same are hereby, repealed.

In the Senate House, the twenty-first day of December, in the year of our Lord one thousand eight hundred and eleven, and in the thirty-sixth year of the Independence of the United States of America.

SAMUEL WARREN, *President of the Senate.*

JOHN GEDDES, *Speaker of the House of Representatives*

No. 1989. AN ACT TO AUTHORIZE THE COMMISSIONERS OF THE ORPHAN HOUSE OF CHARLESTON TO SELECT THE NUMBER OF YOUTHS THEREIN MENTIONED, FROM THOSE EDUCATED AND MAINTAINED ON THE BOUNTY OF THAT INSTITUTION, WHO SHALL BE ALLOWED TO COMPLETE THEIR EDUCATION AT THE SOUTH CAROLINA COLLEGE.

WHEREAS, from the number of orphan children from every part of this State, educated and supported by the munificence of the citizens of Charleston, in the Orphan House of that city, an ample opportunity is offered of making a judicious selection of talents and genius ; in order, therefore, to further the patriotic and liberal views of the patrons of that institution,

I. *Be it enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That from and immediately after the passing of this Act, the commissioners of the Orphan House in the city of Charleston shall be, and they are hereby, authorized and empowered to select, annually, one youth from the number educated and maintained on the bounty of that institution, for the purpose of completing his education at the South Carolina College, graduate and receive the degrees conferred at the said College.

II. *And be it further enacted* by the authority aforesaid, That the Trustees, the President and Professors, shall be, and they are hereby, directed to receive and cause to be educated and allowed to graduate at the South Carolina College, the boys to be selected as aforesaid ; subject, nevertheless, to all the rules, orders and regulations of the said South Carolina College.

III. *And be it further enacted* by the authority aforesaid, That all expense incident to the education and maintenance of the said boys so to be selected, (clothing excepted,) shall be defrayed from the amount annually appropriated by the Legislature to the South Carolina College.

IV. *And be it further enacted* by the authority aforesaid, That as the youths so chosen shall graduate, or in case of the death, expulsion or

*Acts relating to the City of Charleston.*A. D. 1812.


removal of them, or any of them, the commissioners aforesaid are hereby authorized and impowered to fill up any vacancy occasioned thereby.

V. *And be it further enacted* by the authority aforesaid, That the sum of one hundred and forty dollars be, and is hereby, annually appropriated for the cloathing of each of the said boys while they remain at the said College; *Provided nevertheless*, that they shall not continue beyond the term usually allowed to candidates for the first degree.

VI. *And be it further enacted* by the authority aforesaid, That all Acts and parts of Acts repugnant hereto, be, and the same are hereby, repealed.

In the Senate House, the twenty-first day of December, in the year of our Lord one thousand eight hundred and eleven, and in the thirty-sixth year of the Independence of the United States of America.

SAMUEL WARREN, *President of the Senate.*

JOHN GEDDES, *Speaker of the House of Representatives.*

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO AUTHORIZE THE No. 2016.
OPENING AND WIDENING OF STATE, LATE MOTTE AND UNION-STREETS,
IN THE CITY OF CHARLESTON, IN SUCH MANNER AND UNDER SUCH
PROVISIONS AS ARE HEREIN SPECIFIED."

WHEREAS, by an Act passed on the twenty-first day of December, in the year of our Lord one thousand eight hundred and eleven, entitled "An Act to authorize the opening and widening of State, late Motte and Union-streets, in the city of Charleston, in such manner and under such provisions as are herein specified," it is provided that owners of lots in the aforesaid street shall pay one half or moiety of the damages to be assessed by the commissioners therein appointed, in consequence of their particular and local advantage resulting therefrom; but no provision is therein made to enforce the payment of their respective proportions of the assessment, to be made by the said commissioners, nor for making final their assessment, made pursuant to the said Act.

I. *Be it therefore enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the assessments which have, or may hereafter be made, by the commissioners appointed and empowered to assess and make an estimate of the damages which shall or may be sustained by owners of lots and houses lying on or near the said street, or any other person, by reason of the widening of the said street, be, and the same is hereby declared to be, final and conclusive between all and every person or persons interested therein; and if any person or persons who are or may hereafter be liable to pay any part or portion of the assessment made or to be made by the said commissioners in pursuance of the aforesaid Act, shall, after having had ten days notice of the amount of his or their proportion of the said assessment, refuse to pay and satisfy the same, it shall and may be lawful for the intendant and wardens of the city of Charleston to advertise and sell, according to the laws regulating sheriffs sales, all and every such house or houses, lot or lots, on account of which any proportion of

A. D. 1814.

Acts relating to the City of Charleston.

the said assessment may be due or owing, returning the overplus, (if any should remain after the payment of the fees accruing on such sale,) to the person entitled to receive the same; and the said houses and lots, and each and every of them, are hereby declared to be bound for and chargeable with the payment of their respective proportions of the said assessments.

II. *And be it further enacted* by the authority aforesaid, That the said commissioners shall be, and they are hereby, authorized and empowered to take possession of every lot or lots, part or parts of lots or lots, and to remove all houses, buildings, fences or other obstructions therefrom, as may be necessary for the opening and widening of the said streets.

In the Senate House, the eighteenth day of December, in the year of our Lord one thousand eight hundred and twelve, and in the thirty-seventh year of the independence of the United States of America.

SAMUEL WARREN, *President of the Senate.*

JOHN GEDDES, *Speaker of the House of Representatives.*


No. 2059. AN ACT TO APPOINT CERTAIN COMMISSIONERS FOR THE PURPOSE OF ASSESSING THE VALUE OF CERTAIN LANDS IN THE PARISH OF ST. PHILIP'S, ON WHICH FORTIFICATIONS ARE NOW ERECTING FOR THE DEFENCE OF CHARLESTON; AND FOR OTHER PURPOSES THEREIN MENTIONED.

I. *Be it enacted* by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That Keating Simons, Robert Little, Barth. Carroll, John J. Bulaw, and Samuel Robertson, shall be, and they are hereby, appointed commissioners to assess the lands in the parish of St. Philip's, in the district of Charleston, on which fortifications are now erecting for the defence of Charleston on the land side, and also such a number of feet, both in front and rear of the said works, as by them may be deemed necessary for the defence and protection of the same, and to contract with the owners of the said lands for the purchase thereof for the use of the State.

II. *And be it further enacted* by the authority aforesaid, That in case the owners of the said lands be not satisfied with the assessment and valuation made by the commissioners above mentioned, that they are hereby authorized, impowered and required, to appoint an equal number of commissioners with those above named, on their part, for the purpose of making the valuation of the said lands; and that the commissioners above named, and such as may be appointed by the owners of the said lands, or a majority of them, shall value and assess the same.

III. *And be it further enacted* by the authority aforesaid, That in case of vacancies happening in the number of commissioners above named, by death, resignation, or otherwise, the Governor for the time being shall fill such vacancy or vacancies, by appointment.

IV. *And be it further enacted* by the authority aforesaid, That in case the commissioners named, and those who may be appointed in pursuance

*Acts relating to the City of Charleston.*A D. 1815.


of any of the provisions of this Act, or a majority of them, should not agree in making the valuation and assessment of the said lands, the Governor for the time being shall nominate and appoint a fit and proper person, as umpire, to make an assessment and valuation of the said land, which assessment and valuation is hereby declared to be final and conclusive, as respects the owners of the soil.

V. *And be it further enacted* by the authority aforesaid, That the valuation and contract for the lands aforesaid, shall be laid before the Legislature, at their next session, and shall not be binding on the State until the same be approved of by them.

In the Senate House, the sixteenth day of December, in the year of our Lord one thousand eight hundred and fourteen, and in the thirty ninth year of the Independence of the United States of America.

JAMES R. PRINGLE, *President of the Senate.*

THOMAS BENNETT, *Speaker of the House of Representatives.*

AN ACT TO CONFIRM THE DIVISION OF THE CITY OF CHARLESTON INTO FOUR WARDS, AS DIRECTED BY AN ACT PASSED 19TH DECEMBER, 1809; AND FOR OTHER PURPOSES THEREIN MENTIONED.

WHEREAS, by a late decision of the constitutional court, declaring certain ordinances, passed by the city council, nugatory, in consequence of an unauthorized alteration of the wards in 1805, doubts may arise as to the legality of the division made in obedience to the Act of 1809, and other great inconveniences may result to the people of Charleston:

I. *Be it enacted*, by the honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the present division of the city of Charleston into four wards or divisions, the boundaries thereof, and the apportionment of wardens for the respective wards, be, and the same are hereby, confirmed; and that all elections of intendants and wardens had, all ordinances passed, and all acts and deeds done by them, on and since the first Monday in September, 1805, be, and the same are hereby, confirmed and made valid and effectual, to all intents and purposes whatsoever; *provided* such ordinances, acts and deeds be not contrary to nor exceed the powers granted by law to the intendant and wardens of Charleston.

II. *And be it further enacted* by the authority aforesaid, That the territorial jurisdiction of the corporation of the city of Charleston, shall extend to the channel of Cooper and Ashley rivers, its northern boundary being the same as is now declared by law.

In the Senate House, the thirteenth day of December, in the year of our Lord one thousand eight hundred and fifteen, and in the fortieth year of the Independence of the United States of America.

JAMES R. PRINGLE, *President of the Senate.*

THOMAS BENNETT, *Speaker of the House of Representatives.*

A. D. 1816.

Acts relating to the City of Charleston.

No. 2113. AN ACT TO OPEN AND EXTEND PINCKNEY-STREET, IN THE CITY OF CHARLESTON, TO MEETING-STREET.

WHEREAS, a large majority of the freeholders in the city of Charleston, holding lands in the said city, between the western termination of Pinckney-street in the said city, and Meeting-street, are desirous that Pinckney-street should be further extended westwardly, until it intersects Meeting-street, and have petitioned the city council to apply to the Legislature to accomplish that object:

I. *Be it therefore enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the said street called Pinckney-street, be further extended westwardly, until it intersects Meeting-street, according to the map or plan submitted to the said city council by John Wilson, Esq. city surveyor.

II. *And be it further enacted* by the authority aforesaid, That nine freeholders shall be appointed, the party interested appointing four, and the said city council four, which eight persons shall appoint the ninth, to award full compensation to those who may be injured, and to assess the parties who may be benefitted, after a full and fair examination of the premises, on oath, to accomplish such object; and that upon the death, resignation or refusal to serve of any of the said freeholders, that those who remain and agree to act, shall have full power to nominate a successor or successors, to fill such vacancy in the appointment, and to complete the objects of this Act.

In the Senate House, the seventeenth day of December, in the year of our Lord one thousand eight hundred and sixteen, and in the forty-first year of the Independence of the United States of America.

JAMES R. PRINGLE, *President of the Senate.*

THOMAS BENNETT, *Speaker of the House of Representatives.*

No. 2144. AN ACT TO APPOINT A BOARD OF COMMISSIONERS FOR THE CITY OF CHARLESTON, WITH POWER AND AUTHORITY TO DECLARE IN WHAT CASES THE STREETS, LANES AND ALLEYS OF THE CITY SHALL BE WIDENED; AND TO PROVIDE FOR CARRYING INTO EXECUTION THE OBJECTS OF THE SAID BOARD; AND FOR OTHER PURPOSES THEREIN MENTIONED.

I. *Be it enacted* by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That from and after the passing of this Act, whenever the city council of Charleston shall think it expedient to widen any street, alley or lane, they shall first submit the plan of the intended improvement to a board of nine commissioners, to be named and appointed, from time to time, by the Legislature; and if approved and sanctioned by the said board, then the said city council shall have full power to purchase the lots fronting on such street, alley or lane, and the fee simple of such lot or lots shall be vested in the city council from the date of the deed of sale.

Streets and
alleys, how to
be widened.

Acts relating to the City of Charleston.

A. D. 1817.

II. *And be it further enacted* by the authority aforesaid, That in case any owner or owners of said lot or lots, fronting on such street, alley or lane, shall refuse to sell his, her or their lot or lots, or shall demand for the same what may be deemed an unreasonable price by the city council, then the city council shall nominate and appoint not less than three freeholders, resident in the city, who shall meet an equal number, to be named and appointed on the part of the owner or owners, to determine and fix upon the true and real value of such lot or lots, with full power in the commissioners appointed as aforesaid, in case of disagreement, to call in one other commissioner; and on the city council paying the full value of said lot or lots, fixed and determined on in the manner above designated, the fee simple of the said lot or lots shall be vested in them.

Compensation
to owners of
lots.

III. *And be it further enacted* by the authority aforesaid, That in case of neglect or refusal, on the part of the owner or owners of the lot or lots to be valued, within ten days after the notification in writing, of the appointment of the commissioners, as herein directed, the board of commissioners hereby appointed, or a majority of them, on the application of the city council, are hereby authorized to name and appoint such commissioners, whose decision, in concurrence with those appointed by the city council, shall be final and conclusive.

IV. *And be it further enacted* by the authority aforesaid, That the city council of the city of Charleston shall have full power and authority, with the concurrence and approbation of the board appointed by the Legislature, to compel the owners of low lots within the said city, to drain the same, if such draining be practicable, or to fill the same to the level of the streets on which such lots are fronting; also to compel the owner or owners of cellars occasionally filled with water, to cause the same to be pumped out, or otherwise carried off, within five days, or to fill up the same, if deemed requisite by the commissioners appointed by this Act, within two weeks from notification being given in writing to such owner or owners; and in case of neglect or default, they shall be subject to such penalties as shall be prescribed by the city council; and in case the owner or owners of such low lot or lots, or cellars, upon such notice being given, shall neglect or refuse to fill up such low lot or lots, or cause the water in their cellars to be pumped out, or otherwise carried off, the same shall be done by the city council; and they are hereby authorized and empowered to issue a warrant, and collect the expenses arising from the same, or the accrued value of such lots.

Low lots to be
drained or filled
up.

V. *And be it further enacted* by the authority aforesaid, That the expenses incurred and to be incurred by opening and continuing Pinckney-street to Meeting street, as the Act of the seventeenth day of December, eighteen hundred and sixteen directs, shall be assessed and collected in the same manner and according to the principle followed in the assessment of the expenses incurred by the widening of State-street.

Opening of
Pinckney-
street, how to
be paid for.

VI. *And be it further enacted* by the authority aforesaid, That Keating Simons, Thomas Roper, Thomas Bennett, Dr. Joseph Johnson, James Jervais, Christopher Fitzsimons, Henry Horlbeck, John C. Faber, and Charles B. Cochran, be, and they are hereby appointed, commissioners for the purpose of carrying into effect the provisions of this Act; and in case of the death, resignation or absence from the State, of any of the said commissioners, it shall and may be lawful for the said board, or a majority of them, to fill up such vacancy or vacancies.

Commissioners
appointed.

VII. *And be it further enacted* by the authority aforesaid, That the city

A. D. 1817.

*Acts relating to the City of Charleston.*Broad-street to
be straighten-
ed.

council of Charleston shall be, and they are hereby, impowered to make straight the south side of Broad-street, by taking possession of so much of the lot of land belonging to Robert Limehouse as will be necessary for that purpose, upon the city council of Charleston paying the said proprietor of the piece of land so to be taken for public use, such assessment or valuation as may be adjudged and assessed by the commissioners, or a majority of them, appointed under this Act; and such assessment shall be final and conclusive.

Streets hereaf-
ter to be 60 feet
wide.

VIII. And *whereas*, narrow and confined streets, lanes and alleys, are disadvantageous to every city, exposing buildings so situated to great danger from fire, and the inhabitants thereof, by close and confined air, to malignant diseases: *Be it therefore enacted* by the authority aforesaid, That from and immediately after the passing of this Act, no street, lane, alley or court, shall be opened, laid out, extended or established, within any part of the city of Charleston, less than sixty feet, and until the same shall be previously approved by the commissioners of the streets of said city.

This a public
Act.

IX. *And be it further enacted* by the authority aforesaid, That this Act shall be deemed and taken as a public Act, and shall and may be given in evidence in any court of law or equity in this State, without being specially pleaded; any thing to the contrary notwithstanding.

Coroner.

X. *And be it further enacted* by the authority aforesaid, That the city council of Charleston shall be, and they are hereby, authorized and impowered to elect, annually, a coroner for the parishes of Saint Philip and Saint Michael, who shall exercise the same power and authority as are vested in coroners by the laws of this State; any law to the contrary thereof notwithstanding.

In the Senate House, the seventeenth day of December, in the year of our Lord one thousand eight hundred and seventeen, and in the forty-second year of the Independence of the United States of America.

JAMES R. PRINGLE, *President of the Senate.*

THOMAS BENNETT, *Speaker of the House of Representatives.*

No 2145. AN ACT TO ALTER AND AMEND SO MUCH OF THE SECOND CLAUSE OF THE CHARTER INCORPORATING THE CITY OF CHARLESTON, AS RELATES TO THE QUALIFICATION OF VOTERS FOR INTENDANT AND WARDENS; AND FOR OTHER PURPOSES THEREIN MENTIONED.

Qualification
of voters.

I. *Be it enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That from and immediately after the passing of this Act, all free white inhabitants of the city of Charleston, who are constitutionally qualified to vote for members to represent the State in either branch of the Legislature, shall and may be entitled to vote for intendant and wardens of the said city of Charleston.

II. *And be it further enacted* by the authority aforesaid, That three months preceding such election, a book shall be opened by the city treasurer, (of which he shall give due notice,) in which the names of all

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A. D. 1817.

persons who have not paid a tax to the city for the preceding year, shall be inscribed at least one month before such election, which book shall be placed by the city treasurer in the hands of the managers of such election, and no person whose name is not found on the tax books of the city for the preceding year, or on the register or book hereby directed to be opened, shall be permitted by the said managers to vote at such election; and the managers of such election are hereby authorized and empowered to administer, if they shall see fit, an oath, to any person or persons offering to vote, and to make all other necessary inquiries for the purpose of ascertaining whether such person or persons are qualified to vote under this law.

Names to be registered, &c.

III. *And be it further enacted* by the authority aforesaid, That it shall be the duty of the city treasurer, previous to such election, to cause to be transcribed from the city tax books, the names of all persons who shall have paid a tax to the city for the preceding year, with a list of the names of such persons as have not paid a tax, but have enrolled their names as directed by this Act, and to transmit the same to the managers of said election, previous to the day of such election.

List to be made out.

IV. *And be it enacted* by the authority aforesaid, That if any person or persons shall be convicted of having wilfully taken a false oath before such managers of such elections, he or they shall be liable to a prosecution for perjury, and on conviction, shall be subject to all the pains and penalties which are by law inflicted upon those who are convicted of that offence.

Persons swearing falsely, how punished.

V. *And be it further enacted* by the authority aforesaid, That the wardens of the city of Charleston shall hereafter be elected by a general ticket, in the manner following, that is to say; the city council of Charleston shall appoint such places of election as they may think proper, where all the citizens legally entitled to vote may attend and give their suffrages. That the three candidates in ward No. one, who shall have the highest number of all the votes given in the city, shall be declared duly elected wardens for ward No. one; the two Candidates in ward No. two, who shall have the highest number of votes as aforesaid, shall be declared duly elected wardens for ward No. two; the three candidates in ward No. three, who shall have the highest number of votes as aforesaid, shall be declared duly elected wardens for ward No. three; and the four candidates in ward No. four, who shall have the highest number of votes as aforesaid, shall be declared duly elected wardens for ward No. four; and the same rule shall be observed whenever the number of wardens for any of the said wards shall be increased or diminished, as is prescribed by an Act passed for the purpose of fixing the representation from time [to time] within the said city of Charleston; *Provided*, that the persons so to be elected for each ward, shall at the time of election, in addition to the other qualifications prescribed by law, be residents of the ward for which they are elected; and that on removal from the same, his or their office shall become vacant, and a new election be ordered by the city council of Charleston.

Wardens to be elected by general ticket.

VI. *And be it further enacted* by the authority aforesaid, That the election for an intendant of the city of Charleston, shall be held on the same day and at the same places at which the election for wardens shall be held; and that the intendant then in office shall continue to act until his successor shall attend and qualify.

Election of Intendant.

In the Senate House, the eighteenth day of December, in the year of our Lord one thousand eight hundred and seventeen, and in the forty-second year of the Independence of the United States of America,

JAMES R. PRINGLE, *President of the Senate.*

THOMAS BENNETT, *Speaker of the House of Representatives.*

A.D. 1818.

Acts relating to the City of Charleston.

No. 2151. AN ACT TO ENABLE THE CITY COUNCIL OF CHARLESTON TO CARRY INTO MORE COMPLETE EFFECT THE QUARENTINE LAWS.

WHEREAS, it has been represented to the Legislature by the city council of Charleston, that vessels arriving at that port, and liable to the performance of Quarantine, are by the present arrangements subjected to many inconveniences, and that the funds appropriated by the State are insufficient to make suitable provision for the safe keeping of the cargoes of such vessels, or for the proper care of the sick.

I. *Be it therefore enacted* by the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the salary heretofore allowed to the keeper of the Lazaretto be, and the same is hereby, discontinued, and that in lieu thereof, the sum of one thousand dollars per annum be paid to the city council of Charleston, to be applied by them in any manner they may deem expedient for the accomplishment of the objects of the quarantine laws.

In the Senate House, the seventeenth day of December, in the year of our Lord one thousand eight hundred and seventeen, and in the forty-second year of the Independence of the United States of America.


JAMES R. PRINGLE, *President of the Senate.*

THOMAS BENNETT, *Speaker of the House of Representatives.*

No. 2198. AN ACT TO ALTER AND AMEND AN ACT ENTITLED "AN ACT TO APPOINT A BOARD OF COMMISSIONERS FOR THE CITY OF CHARLESTON, WITH POWER AND AUTHORITY TO DECLARE IN WHAT CASES THE STREETS, LANES AND ALLEYS OF THE CITY SHALL BE WIDENED."

I. *Be it enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That from and after the passing of this Act, it shall and may be lawful for the city council of Charleston, by and with the approbation and sanction of the Board of commissioners appointed for carrying into effect the provisions of the Act of General Assembly, passed on the seventeenth day of December, in the year of our Lord one thousand eight hundred and seventeen, entitled "An Act to appoint a board of commissioners for the city of Charleston, with power and authority to declare in what cases the streets, lanes and alleys of the city shall be widened," to open, lay out, extend and establish, any street, lane, alley or court, in the city of Charleston, and to make such street, lane, alley or court, of such width, as to them, in discretion, may seem meet.

II. *And be it further enacted* by the authority aforesaid, That so much of the Act of General Assembly, passed on the seventeenth day of December, in the year of our Lord one thousand eight hundred and seventeen, entitled "An Act to appoint a board of commissioners for the city of Charleston, with power and authority to declare in what cases the streets, lanes and alleys of the city shall be widened," as directs that no street, lane, alley or court, shall be opened, laid out, extended or established in the

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city of Charleston, less than sixty feet, be, and the same is hereby, repealed.

III. *And be it further enacted* by the authority aforesaid, That James Nicholson is hereby appointed a commissioner, in addition to those now appointed, for the purpose of carrying into effect the provisions of the aforesaid Act.

IV. *And be it further enacted* by the authority aforesaid, That the city council of Charleston shall, and they are hereby authorized and empowered to, appoint and cause commissioners to be appointed, to assess, levy and collect the damages which may be sustained, and the advantages to be derived, by the owners of lots and houses fronting on any street, lane, alley or court, to be opened, widened or extended as aforesaid, in the same manner and according to the principles contained in and declared by an Act passed for the widening or enlargement of Motte and Union-streets, passed in the year one thousand eight hundred and ten, and the amendatory Acts thereto, passed in the year one thousand eight hundred and eleven, and one thousand eight hundred and twelve.

In the Senate House, the eighteenth day of December, in the year of our Lord one thousand eight hundred and eighteen, and in the forty-third year of the Independence of the United States of America.

JAMES R. PRINGLE, *President of the Senate.*

PATRICK NOBLE, *Speaker of the House of Representatives.*

AN ACT TO ALTER AND AMEND AN ACT ENTITLED "AN ACT TO No. 2214.

ALTER AND AMEND SO MUCH OF THE SECOND CLAUSE OF THE CHARTER INCORPORATING THE CITY OF CHARLELTON, AS RELATES TO THE QUALIFICATION OF VOTERS FOR INTENDANT AND WARDENS; AND FOR OTHER PURPOSES THEREIN MENTIONED," PASSED ON THE EIGHTEENTH DAY OF DECEMBER, IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED AND SEVENTEEN.

WHEREAS, it is right to guard the elective franchise from abuse, and to preserve purity in the exercise of it, and no mode consistent with the extensive use of this right, is deemed so effectual for the accomplishment of this great and desirable object, in a populous city, as the establishment of a registry of the names of all the voters, prior to the election:

I. *Be it therefore enacted*, by the honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That an Act entitled "An Act to alter and amend so much of the second clause of the charter incorporating the city of Charleston, as relates to the qualification of voters for intendant and wardens, and for other purposes therein mentioned," passed on the eighteenth day of December, in the year of our Lord one thousand eight hundred and seventeen, be so far altered, as that the operation of the said Act shall extend to all persons qualified to vote for intendant and wardens of the city of Charleston; and that the said voters shall register their names at least one month before the day of election; and at the time of registering

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their names, likewise register the place of their residence ; but that after registering their names and places of residence, prior to any election, it shall not be necessary to register the same for any future election.

II. *And be it further enacted* by the authority aforesaid, That the managers of the election shall read to each person who offers to vote, that part of the constitution which relates to the qualification of voters, and shall administer to him the oath prescribed by the same.

In the Senate House, the eighteenth day of December, in the year of our Lord one thousand eight hundred and nineteen, and in the forty-fourth year of the Independence of the United States of America.

BENJAMIN HUGER, *President of the Senate.*

PATRICK NOBLE, *Speaker of the House of Representatives.*

No. 2266. AN ACT TO INVEST THE CITY COUNCIL OF CHARLESTON WITH POWER TO GRANT LICENCES TO RETAIL GROCERS, AND PERSONS RETAILING ON THE WHARVES OF CHARLESTON.

I. *Be it enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the city council of Charleston shall have power to grant licenses, under any regulations they shall impose, or to refuse them at their discretion, to grocers of the said city selling at retail, and also to any other person or persons whomsoever, selling at retail within the harbour of Charleston, or on the deck of any vessel, or on any of the wharves of the said city, in as full and ample a manner as they now have in granting and refusing licences to sell to retailers of spirituous liquors ; and may demand for every such license a sum to be fixed at their discretion.

In the Senate House, the twentieth day of December, in the year of our Lord one thousand eight hundred and twenty-one, and in the forty-sixth year of the Independence of the United States of America.

BENJAMIN HUGER, *President of the Senate.*

PATRICK NOBLE, *Speaker of the House of Representatives.*

No. 2302. AN ACT TO VEST POWER IN THE CITY COUNCIL OF CHARLESTON TO PREVENT THE RETAILING OF SPIRITUOUS LIQUORS WITHOUT A LICENSE.

WHEREAS, doubts exist whether the city council of Charleston have the power to pass any ordinance imposing a penalty on retailers of spirituous liquors without a license, and to recover it by process in the city court :

I. *Be it enacted*, by the the Senate and House of Representatives, in General Assembly met and sitting, That from and after the passing of this Act, the city council of Charleston be, and they are hereby, vested with power to pass any ordinance or ordinances imposing a penalty or penalties

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on retailers of spirituous liquors, selling without a license within the corporate limits of the city of Charleston, and to recover the same in the city court, or any other court having jurisdiction of the amount of said penalty or penalties.

II. *Be it further enacted* by the authority aforesaid, That the city council of Charleston be, and they are hereby, vested with full power to pass any ordinance or ordinances relative to the retailing of spirituous liquors within the corporate limits of the city of Charleston, and to affix such penalties as may be necessary to prevent their violation.

III. *Be it further enacted* by the authority aforesaid, That all laws repugnant to this Act be, and the same are hereby, repealed.

In the Senate House, the twentieth day of December, in the year of our Lord one thousand eight hundred and twenty-three, and in the forty-eighth year of the Sovereignty and Independence of the United States of America.

JACOB BOND I'ON, *President of the Senate.*

PATRICK NOBLE, *Speaker of the House of Representatives.*

AN ACT TO GIVE TO THE CITY COUNCIL OF CHARLESTON THE POWER TO REGULATE THE MEASURING OF GRAIN SOLD WITHIN THE LIMITS OF THAT CORPORATION. No. 2386.

I. *Be it enacted*, by the honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That from and after the passing of this Act, the city council of Charleston shall have full power and authority to regulate and control the sale of grain, by measurement or weight, or both, sold within the corporate limits of the city, in such manner as will insure a fair, equal and uniform sale and measurement of the same.

In the Senate House, on the twentieth day of December, in the year of our Lord one thousand eight hundred and twenty-six, and in the fifty-first year of the Independence of the United States of America.

JACOB BOND I'ON, *President of the Senate.*

JOHN B. O'NEALL, *Speaker of the House of Representatives.*

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO APPOINT A BOARD OF COMMISSIONERS FOR THE CITY OF CHARLESTON, WITH POWER AND AUTHORITY TO DECLARE IN WHAT CASES THE STREETS, LANES AND ALLEYS OF THE CITY SHALL BE WIDENED, AND TO PROVIDE FOR CARRYING INTO EXECUTION THE OBJECTS OF THE SAID BOARD; AND FOR OTHER PURPOSES THEREIN MENTIONED." No. 2407.

WHEREAS, by the fourth section of an Act of the General Assembly of this State, passed the seventeenth of December, in the year one thousand eight hundred and seventeen, entitled "An Act to appoint a board of commissioners for the city of Charleston, and for other purposes therein mentioned," it was provided that the said board of commissioners should

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concur in the exercise of the powers therein granted to the city council of Charleston, in relation to low lots and cellars within the city of Charleston; and whereas, it has been frequently found impracticable to obtain a meeting and concurrence of the said board, when it was necessary to act with promptness:

I. *Be it therefore enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That so much of the fourth section of the Act aforesaid, as requires the concurrence of the said board of commissioners, in the exercise of the powers therein specified, be, and the same is hereby, repealed; and that all the power and authority aforesaid, be, and the same is hereby, vested exclusively in the city council of Charleston.

In the Senate House, the nineteenth day of December, in the year of our Lord one thousand eight hundred and twenty-seven, and in the fifty-second year of the Independence of the United States of America.

JACOB BOND I'ON, *President of the Senate.*

JOHN B. O'NEALL, *Speaker of the House of Representatives.*

No. 2512. AN ACT TO AUTHORIZE THE CITY COUNCIL OF CHARLESTON TO FILL UP LOW LOTS AND GROUNDS IN THE CITY OF CHARLESTON, IN CERTAIN CASES; AND FOR OTHER PURPOSES.

I. *Be it enacted*, by the Senate and House of Representatives, That whenever the city council of Charleston shall be of opinion that any lots or grounds within the city of Charleston, belonging to any person or persons, body or bodies corporate, are in a state of nuisance, or so situated, that in warm and unhealthy seasons, a nuisance may thereby be created, and the health of the citizens endangered; or whenever the land or streets in the vicinity of said lots may become liable to injury therefrom, the city council of Charleston shall have full power and authority to cause a notice to be served on the owner or owners of such lots or grounds, directing him or them to have the same filled up, to such extent, in such manner, with such materials, and within such reasonable time, as may be prescribed in such notice; and in case the owner or owners of such lot or grounds shall neglect or refuse to fill up said lots or grounds, in conformity with the said notice, that then the said city council are hereby authorized and empowered to have such lots and grounds filled up, to such extent and in such manner as they may think fit.

II. All expenses and charges paid or incurred by the said city council, in case such lots or grounds shall be filled up under their authority and direction as aforesaid, shall and may be recovered, with interest and costs of suit, in an action of debt, to be brought by said city council, in the court of common pleas, against the owner or owners of such lots or grounds; *provided* the said expenses and charges do not exceed more than half the value of said lots or grounds.

In the Senate House, the eighteenth day of December, in the year of our Lord one thousand eight hundred and thirty, and in the fifty-fifth year of the Independence of the United States of America.

H. DEAS, *President of the Senate.*

H. L. PINCKNEY, *Speaker of the House of Representatives.*

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No. 2604.

AN ACT TO REPEAL AN ACT ENTITLED "AN ACT TO EXEMPT THE MEMBERS OF THE VIGILANT, PHOENIX, ÆTNA, AND CHARLESTON FIRE ENGINE COMPANIES OF CHARLESTON, FROM JURY DUTY."

I. *Be it enacted*, by the honorable the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That an Act entitled "An Act to exempt the members of the Vigilant, Phoenix, Ætna, and Charleston Fire Engine Companies of Charleston, from jury duty," passed the seventeenth day of December, in the year of our Lord one thousand eight hundred and thirty-one, be, and the same is hereby, repealed.

In the Senate House, the nineteenth day of December, in the year of our Lord one thousand eight hundred and thirty-three, and in the fifty-eighth year of the Independence of the United States of America.

H. DEAS, *President of the Senate.*

PATRICK NOBLE, *Speaker of the House of Representatives.*

AN ACT TO AUTHORIZE THE CITY COUNCIL OF CHARLESTON TO SHUT UP CERTAIN STREETS NEAR THE MARKET IN CHARLESTON; AND FOR OTHER PURPOSES. No. 2651.

I. *Be it enacted*, by the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the city council of Charleston be, and they are hereby, authorized and empowered to shut up, close and discontinue, any of the streets, lanes and alleys, within the square in the city of Charleston, bounded by Pinckney-street on the north, Anson-street on the east, Market-street on the south, and Meeting-street on the west; and to open, lay out, extend and establish any new streets, lanes or alleys, within those limits, of such width and dimensions as by the said city council may be deemed expedient.

II. *And be it further enacted*, That the lands now forming any of the streets, lanes and alleys within the limits herein designated, which may be shut up, closed and discontinued by the city council, under the authority of this Act, be, and the same are hereby, vested in the city council of Charleston in fee simple.

III. *And be it further enacted*, That in case any owner or owners of any lot or lots in fee simple or in leasehold, with the building or buildings thereon, fronting on such street, lane or alley, which may be closed up and discontinued under the authority of this Act, or through which any new street may pass or be made, shall refuse to sell his, her or their lot or lots, leasehold or buildings, or shall demand for the same what may be deemed by the city council an unreasonable price, then the city council shall nominate and appoint not less than three freeholders, resident in the city, who shall meet an equal number, to be named and appointed on the part of such owner or owners, to determine and fix upon the true and real value of such lot or lots, leasehold or buildings, with the full power in the commissioners appointed as aforesaid, in case of disagreement, to call in

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one other commissioner ; and on the city council paying the full value of such lot or lots, leasehold or buildings, fixed and determined in the manner above designated, the absolute estate of the said lot or lots, leasehold and buildings, shall be vested in them.

IV. *And be it further enacted*, That in case of the neglect or refusal of the owner or owners of the lot or lots, leasehold or buildings, to be valued as aforesaid, to appoint freeholders on their part, to meet those appointed by the city council, within ten days after notification in writing of the appointment of the commissioners on the part of the city council, the board of commissioners appointed under the Act of 1817, to declare in what cases streets, lanes and alleys of the city of Charleston shall be widened, on the application of the city council, are hereby authorized to name and appoint commissioners to act on the part of such owner or owners, equal in number to those appointed by the council ; and full power is hereby given to a majority of said joint commissioners, in case of disagreement as to the value of said lot or lots, leasehold or buildings, to call in one other commissioner, and the decision of a majority of said joint commissioners, or of said additional commissioner, so called in, upon their disagreement as aforesaid, shall be final and conclusive.

V. *And be it further enacted*, That all Acts and parts of Acts repugnant hereto, be, and the same are hereby, repealed.

VI. *And be it further enacted*, That the field officers of the 4th brigade, residing in the city of Charleston, be, and are hereby, authorized, by and with the sanction and consent of the city council of Charleston, and Dr. Henry Boylston, to enclose Inspection-street at both ends, with gates, and to regulate the use of said street in such manner as they may deem proper.

In the Senate House, the nineteenth day of December, in the year of our Lord one thousand eight hundred and thirty-five, and in the sixtieth year of the Sovereignty and Independence of the United States of America.

H. DEAS, *President of the Senate.*

PATRICK NOBLE, *Speaker of the House of Representatives.*

No. 2674. AN ACT IN RELATION TO MITCHELL'S ALLEY, IN THE CITY OF CHARLESTON.

I. *Be it enacted*, by the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the city council of Charleston, if the said council concur in the expedience of the measure, be, and the same is hereby, authorized and impowered to cause Mitchell's alley, running from East Bay-street to Bedon's alley, in the city of Charleston, to be permanently closed up at that end of Mitchell's alley which terminates at Bedon's alley ; the expense whereof shall be defrayed by the owners of lands and buildings adjacent to the last mentioned alley.

In the Senate House, the twenty-first day of December, in the year of our Lord one thousand eight hundred and thirty-six, and in the sixty-first year of the Sovereignty and Independence of the United States of America.

PATRICK NOBLE, *President of the Senate.*

D. L. WARDLAW, *Speaker of the House of Representatives.*

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AN ACT TO AUTHORIZE THE CITY COUNCIL OF CHARLESTON TO TAX THE INCOME OF PERSONS RESIDENT WITHOUT THE SAID CITY, DERIVED FROM BUSINESS CONDUCTED WITHIN THE CITY. No. 2675.

I. *Be it enacted*, by the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the city council of Charleston shall be, and they are hereby, vested with power and authority to levy and collect such assessments and taxes on the income and profit of persons resident without the limits of the city of Charleston, derived from the pursuit of any faculty, profession or occupation conducted within the limits of the said city, as the said city council may deem expedient for the safety, convenience, benefit and advantage of the said city : *provided*, that no tax imposed upon the said persons, so resident without the city, shall be at a greater rate than that laid upon persons resident within the same.

In the Senate House, the twenty-first day of December, in the year of our Lord one thousand eight hundred and thirty-six, and in the sixty-first year of the Sovereignty and Independence of the United States of America.

PATRICK NOBLE, *President of the Senate.*

D. L. WARDLAW, *Speaker of the House of Representatives.*

AN ACT TO AUTHORIZE THE CITY COUNCIL OF CHARLESTON TO CLOSE AMEN-STREET IN CHARLESTON; AND FOR OTHER PURPOSES. No. 2676.

I. *Be it enacted*, by the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the city council of Charleston be, and they are hereby, authorized and empowered to shut up, close and discontinue Amen-street, extending from Church-street to East Bay, in the city of Charleston, or such part thereof as the said city council may deem expedient.

II. That in case any owner or owners of any lot or lots, in fee simple or in leasehold, with the buildings thereon, fronting on said Amen-street, which may be closed up and discontinued under the authority of this Act, shall refuse to sell his, her or their lot or lots, leasehold or buildings, or shall demand for the same what may be deemed by the city council an unreasonable price, then the city council shall nominate and appoint not less than three freeholders, resident in the city, who shall meet an equal number to be named and appointed on the part of such owner or owners, to determine and fix upon the true and real value of such lot or lots, leasehold or buildings, with full power in a majority of the commissioners appointed as aforesaid, in case of disagreement, to call in one other commissioner; and on the city council paying the full value of such lot or lots, leasehold or buildings, fixed and determined in the manner above designated, the absolute estate of the said lot or lots, leasehold and buildings, shall be vested in the said city council.

III. That in case of the neglect or refusal of the owner or owners of the

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lot or lots, leasehold or buildings, to be valued as aforesaid, to appoint freeholders on their part, to meet those appointed by the city council, within ten days after notification in writing of the appointment of the commissioners on the part of the city council, the board of commissioners appointed under the Act of eighteen hundred and seventeen, to declare in what cases streets, lanes and alleys, of the city of Charleston, shall be widened, on the application of the city council, are hereby authorized to name and appoint commissioners to act on the part of such owner or owners, equal in number to those appointed by the council; and full power is hereby given to a majority of the said joint commissioners, in case of disagreement as to the value of such lot or lots, leasehold or buildings, to call in another commissioner; and the decision of a majority of the said joint commissioners, or of said additional commissioner, so called in upon their disagreement as aforesaid, shall be final and conclusive.

IV. That in case of the refusal of the commissioners appointed on the part of the owner or owners of any of the lots, leasehold or buildings, in case of disagreement with the commissioners on the part of the city council, to call in one other commissioner as aforesaid, in the second clause of this Act, it shall and may be lawful for the said commissioners under the Act of eighteen hundred and seventeen, to call in such other commissioner, whose award shall be final.

In the Senate House, the twenty-first day of December, in the year of our Lord one thousand eight hundred and thirty-six, and in the sixty first year of the Sovereignty and Independence of the United States of America.

PATRICK NOBLE, *President of the Senate.*

D. L. WARDLAW, *Speaker of the House of Representatives.*

No. 2680. AN ACT TO ALTER AND AMEND THE CHARTER OF THE CITY OF CHARLESTON; AND FOR OTHER PURPOSES THEREIN MENTIONED.

I. *Be it enacted* by the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the name and title of the intendant and wardens of the respective wards in the city of Charleston, as expressed in the Act passed the thirteenth day of August, one thousand seven hundred and eighty-three, entitled "An Act to incorporate Charleston," and in all other Acts to amend the Charter of the city, be changed to the name and title of the Mayor and Aldermen of the respective wards in the city of Charleston; and all laws of the State, and ordinances of the city council of Charleston, relating to the powers, election and term of office and duties of the said intendant and wardens, shall be, and the same are hereby, made of force in relation to the Mayor and Aldermen of the city of Charleston, in the same manner as if they, or either of them, had been therein specifically named by that title; and the said Mayor and Aldermen shall meet together in city council with the same powers and authority as the said intendant and wardens under the Act before mentioned.

II. That the said Mayor and Aldermen of the city of Charleston shall be, and are hereby, respectively vested with, and shall exercise, the same

Title of city council changed.

Their powers.

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powers and authority that are now vested in and exercised by the intendant and wardens of the wards of the city of Charleston, under any of the Acts of Assembly and ordinances of the city council of Charleston.

III. That so much of the ninth section of the said Act entitled "An Act to incorporate Charleston," as declares "no person shall be eligible to serve as intendant, (changed by this Act into the title of Mayor) for more than three years in any term of five years," be, and the same is hereby, repealed. Re-eligibility of Mayor.

IV. That the said Mayor of the city of Charleston shall have power to issue warrants, and cause all offenders against law to be brought before him, at the police court established under the ordinances of the city council of Charleston, or at such other time and place as he may direct, and either to release, admit to bail, (if the offence be bailable,) or commit to the custody of the sheriff of Charleston district, who is hereby commanded and required to receive the same, and keep in safe custody until discharged by due course of law; and the said Mayor shall, within the corporate limits of the city, have and exercise all the powers of a Justice of the Quorum; and the said Mayor shall and may, by compulsory process, enforce the attendance of witnesses who may be required to give testimony before the said police court; and shall and may punish as for contempt all persons who may, in the presence of the said court, be guilty of any riotous or disorderly conduct, or who may in any other manner unlawfully interrupt the proceedings of the said police court. Mayor to hold Police Court.

V. That in case of the sickness or temporary absence of the Mayor of the said city, the Aldermen shall appoint one of their number to act as Mayor pro tempore, who shall for the time being exercise the powers and duties vested in the Mayor; and the duty of the Mayor in holding the police court, during such sickness or temporary absence of the Mayor, shall devolve on the Aldermen in rotation; and the said Mayor shall not, by virtue of any temporary absence from the State with the consent of the city council, vacate his office. In case of the absence of the Mayor.

VI. That the city council of Charleston shall have power to levy fines for all offences against their ordinances and bye-laws now existing, or which may hereafter be passed, to any amount not exceeding one thousand dollars for each such offence, to be recoverable in the city court of Charleston, or any other court having jurisdiction. Fines.

VII. It shall not be lawful for any officer or non-commissioned officer of the city guard to exercise any of the powers of a Magistrate, in any case of complaint by or against the said city guard, or any officer or member thereof.

VIII. That no amendment to the charter of the said city, or alteration of any of the laws relating to the city of Charleston, which require the sanction of the Legislature, shall hereafter be made, unless the substance of the amendment or alteration be published in some gazette of the city, for thirty days previous to the application for such amendment or alteration. Amendments of the city charter.

In the Senate House, the twenty-first day of December, in the year of our Lord one thousand eight hundred and thirty-six, and in the sixty-first year of the Sovereignty and Independence of the United States of America.

PATRICK NOBLE, *President of the Senate.*

D. L. WARDLAW, *Speaker of the House of Representatives.*

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No. 2688. AN ACT FOR THE BETTER REGULATION OF THE FIRE DEPARTMENT IN THE CITY OF CHARLESTON.

I. Be it enacted by the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, Regulations of fire companies. That all and every fire engine, and other fire company, or company of axemen, hereafter to be incorporated, the members of which are or shall be residents in the city of Charleston, shall be, respectively, subject and liable to the government of such ordinances, rules and regulations, for the management and extinguishment of fires, the preservation and keeping of the fire engines, and other apparatus of the respective companies, in proper order, and for the training, exercising and inspecting of the said fire engine, and other fire companies and their apparatus, as shall be made, ordained and passed by the city council of Charleston, or by the board of fire masters of the city of Charleston, by and with the sanction and approbation of the said city council; *Provided*, that the said companies shall not respectively be liable to be called out for exercise and inspection, oftener than four times during the year.

II. That no fire company of axemen, hereafter incorporated, shall consist Their number. of more than fifty nor less than thirty men; that neither of the said fire engine companies shall consist of more than eighty nor less than thirty able-bodied and efficient men; and that the members of the said companies shall be exempt from militia duty, except in times of invasion or alarm; *Provided*, that if the number of the members of either of the said fire engine companies, or other fire company, hereafter to be incorporated, shall, by resignation or otherwise, fall short of the number required by this Act, such company shall lose and forfeit all the privileges granted them by law, and the members thereof shall be liable to perform military duty; and it shall be the duty of the intendant of the city of Charleston to inspect said companies from time to time, and see that they do not consist of a greater or less number of men than is herein prescribed.

III. And *whereas*, the duties assigned to the city constables at fires, City Constables. under the fire regulations recently adopted, are arduous and important, the said city constables are hereby exempted from the performance of militia duty, except in times of invasion or alarm; *Provided*, the same shall not exceed twenty-four.

IV. That the fire masters appointed by the city council of Charleston, Fire Masters. shall have the exclusive control over, and management of, all fire engines and fire companies, at time of fires, and all persons in any ways employed in working said engines, or in doing duty in said companies, at times of fire, are hereby strictly enjoined and required to obey and perform all orders and directions which they may receive from the said fire masters, and none others; *Provided always*, that should no fire masters be present, the said persons so employed do obey all orders given them by the intendant and wardens present.

In the Senate House, the twenty-first day of December, in the year of our Lord one thousand eight hundred and thirty-six, and in the sixty-first year of the Sovereignty and Independence of the United States of America.

PATRICK NOBLE, *President of the Senate.*

D. L. WARDLAW, *Speaker of the House of Representatives*

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AN ACT ESTABLISHING A LINE BEYOND WHICH THE WHARVES SHALL No. 2691.
NOT BE EXTENDED IN THE CITY OF CHARLESTON; AND FOR OTHER
PURPOSES.

I. *Be it enacted*, by the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the line colored red, lettered A. B. C. D. E. F. G. H, as marked and laid down on a plat of the wharves on the eastern boundary of the city of Charleston, by Charles Parker, the city surveyor, dated the fifth day of November, 1836, be, and the same is hereby, established as the line beyond which no wharf, or other building or structure whatever, shall hereafter be extended; and if any person whatever shall, after the passing of this Act, build, or cause to be built, or aid or assist in causing to be built, any wharf, or other building or structure, beyond the line hereby established, every such person shall, for each and every such offence, forfeit and pay not less than one, nor more than five thousand dollars, and shall moreover be liable to pay fifty dollars for every day such wharf or other structure shall there remain, to be recovered by indictment, action of debt, or information, in the city court of Charleston, or the court of general sessions and common pleas; one half of such penalty to go to the person who may sue for and recover the same, and the remaining half to the city; and the city council shall have power to remove such wharf or other structure, at the expense of the owner thereof.

II. That if any person shall, by throwing stones, or otherwise, create any obstruction to the navigation in any part of the harbor of Charleston, within the corporate limits of the city, every such offender shall be liable to the penalties above prescribed, to be recovered by indictment, action of debt, or information, as aforesaid, and disposed of in the manner above mentioned.

III. That it shall be the duty of the city council of Charleston to cause the aforesaid plat, with the line marked out by the city surveyor aforesaid, to be recorded in the Secretary of State's office, in Charleston, within six months from the passing of this Act.

IV. That all vacant land not legally vested in individuals, in the harbor of Charleston, covered by water, be, and the same is hereby, vested in the city of Charleston for public purposes, but not to be so used or disposed of as to obstruct or injure the navigation of said harbor.

V. That no person, being the owner of any low-water lot or lots, within the corporate limits of the city of Charleston, on the edge of Ashley or Cooper river, shall be allowed to use the same in any manner that may be injurious to the health, comfort or convenience of the citizens; and the city council is hereby authorized to make such regulations, and pass such ordinances, in relation to this subject, as may be necessary and proper; *provided always*, that private property shall not be taken for the public use by the city council as aforesaid, without just compensation.

VI. That any person intending to build or erect any wharf, or to extend the same towards the line hereby established, shall first apply to the city surveyor to mark out and designate the point beyond which the said wharf or structure shall not be extended; and if any person shall proceed to build or construct any such wharf or structure, without having the extent thereof marked out and designated as aforesaid, such person shall be liable to the penalties imposed by the first section of this Act, to be recovered and disposed of as therein directed.

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VII. That it shall be the special duty of the city surveyor, under the direction of the intendant, to see that all the provisions of this Act be carried into full effect, and that all violations thereof be prosecuted according to law.

In the Senate House, the twenty-first day of December, in the year of our Lord one thousand eight hundred and thirty-six, and in the sixty-first year of the Sovereignty and Independence of the United States of America.

PATRICK NOBLE, *President of the Senate.*

D. L. WARDLAW, *Speaker of the House of Representatives.*

No. 2713. AN ACT TO AUTHORIZE THE COMMISSIONERS OF PUBLIC BUILDINGS FOR CHARLESTON DISTRICT, TO APPLY PART OF THEIR FUNDS TO THE REPAIRS AND EXTENSION OF THE MAIN GUARD HOUSE IN THE CITY OF CHARLESTON; AND FOR OTHER PURPOSES.

I. *Be it enacted*, by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and it is hereby enacted by the authority of the same, That the board of commissioners appointed to superintend and keep in repair the court house and jail of Charleston district, be, and they are hereby, authorized and impowered, from the monies now in their charge, or which may hereafter be levied and collected under the Act entitled "An Act to provide for the repairing of court houses and jails in the said State," to apply the sum of ten thousand dollars to the repairs and extension of the present guard house in Charleston, or the erection of new buildings on or near the site of the present guard house in the said city; *provided*, that the city council of Charleston shall appropriate such an amount of money as may be necessary on their part to complete the execution of the plan that may be finally agreed upon between the said city council and the board of commissioners of public buildings for Charleston district, for the improvement of the aforesaid premises.

II. *And be it further enacted* by the authority aforesaid, That the city council of Charleston be, and they are hereby, authorized and impowered to improve the said premises, and to take down and erect any buildings thereon; *provided*, that the said city council shall furnish to the Apprentices Library Society, and the Phoenix Fire Engine Company, such buildings in lieu of those now occupied by them on the guard house square, as may be satisfactory to those bodies respectively, and conformably to the arrangements entered into for such exchanges between the said city council and the said society and company.

III. *And be it further enacted* by the authority aforesaid, That nothing herein contained shall in any manner effect the present use and arrangement of the State Arsenal in Broad-street, containing the public arms and munitions of the State, or the free and unobstructed use of that arsenal by the artillery and infantry, and also of all that portion of the guard house square, measuring east of said arsenal seventy-one feet, and in depth one hundred and twenty-eight feet, which division of the aforesaid square shall continue to be occupied by that portion of the militia by

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which it is now occupied ; subject however, to the privilege by the city council of Charleston, of continuing to use the said ground for the drilling and exercise of the city guard ; the said ground, or portion of the guard house square, being hereby declared to be subject to the common use and occupation of the artillery, the infantry and the city guard ; *provided*, that nothing herein contained shall be construed to prevent the State from using or converting to its own use the said lot and buildings thereon, whenever it may be deemed expedient to do so.

IV. *Be it further enacted*, That for the next two years that assessment of taxes shall be made by the commissioners of public buildings for the judicial district of Charleston, all the parishes in the said district shall be exempt from such assessments, except the parishes of St. Philip and St. Michael ; and the said commissioners shall otherwise take care that the whole of the expenditure herein before authorized, shall be borne by the parishes of St. Philip and St. Michael, and are hereby authorized and directed to make their future assessments with a view to that end.

In the Senate House, the twentieth day of December, in the year of our Lord one thousand eight hundred and thirty-seven, and in the sixty-second year of the Sovereignty and Independence of the United States of America.

PATRICK NOBLE, *President of the Senate.*

D. L. WARDLAW, *Speaker of the House of Representatives.*

AN ACT TO REORGANIZE THE COLLEGE OF CHARLESTON.

No. 2733.

WHEREAS, the city council of Charleston and the Trustees of the College of Charleston, have represented by their petition, that to advance the objects for which the said institution was incorporated, they have entered into an agreement for the surrender and transfer to the city council of Charleston, of all the property of the said college ; and the said city council have agreed to accept the same, and undertake the re-establishment and maintenance thereof, and they pray for an Act to sanction the said arrangement :

I. *Be it therefore enacted*, by the honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the trustees of the college of Charleston be, and are hereby, authorized, now, or at any time or times hereafter, to surrender and transfer to the city council of Charleston, all the property, real and personal, of and belonging to the said trustees of the college of Charleston, and also all right and interest granted or belonging to the said trustees, or to the said college, whether to escheat or otherwise, to be held by the said city council of Charleston, in trust forever, to and for the sole use and benefit of the said college of Charleston ; and further in trust, that the said city council of Charleston shall and will provide the means to re-establish and maintain the said college, should the income of the college and the tuition fees be inadequate to that object, and so far as they may be so inadequate ; and should the exercises of the said college be at any time unavoidably suspended, then so long as they are so suspended, the college fund shall be allowed to accumulate for the future benefit of the institution, and in like manner any surplus income that may at any time annually remain after defraying the expenses of the year, shall form an accumulat-

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ing fund, and be invested to increase the income and extend the benefit of the institution, and shall be applied to no other purpose.

II. *Be it further enacted*, That the said college of Charleston shall be under the management and direction of a board of twenty-one trustees; that the mayor and recorder of the said city for the time being shall always be ex-officio members of the said board; that three of the said board shall be forthwith elected by the said city council from their own body, to serve as trustees until the next annual election of aldermen; and three trustees shall thereafter be annually elected by the said city council from their own body, immediately after the annual election of aldermen for the said city, and shall hold their office until the next annual election of aldermen; and that the said city council shall forthwith elect from the present board of trustees sixteen persons, who, with such persons as may be hereafter elected in their stead, shall hold the office in the same manner, and for the same term, as it is now held; and the said board of trustees so appointed or elected, and their successors forever, shall be known as a body corporate, and designated in law by the name and title of the Trustees of the College of Charleston, and shall be, and are hereby, vested with all the rights, powers, privileges, authorities and franchises vested in the present board of trustees, either in and by their Act of incorporation, passed on the twentieth day of December, in the year of our Lord one thousand seven hundred and ninety-one, or by any other law or laws of this State.

III. *Be it further enacted*, That ten days previous notice being given, the said trustees, and their successors, shall meet on the Monday preceding the third Wednesday in October of every year, or on such other day or days annually as the board of trustees may direct, at the College in Charleston, and shall elect a President of the Board of Trustees, and such other officers as they may deem necessary, to serve for the ensuing year, or until a new election.

IV. *Be it further enacted*, That any vacancy that may occur in the Board of Trustees, from a vacancy in the Mayoralty or Recordership of the city, shall be filled by the officers respectively, duly elected to these offices, and all other vacancies in the said Board, either by the expiration of the office of the three members of council annually elect, the Trustees, or by death, resignation or removal from the State, shall be filled by the city council.

V. *Be it further enacted*, That the Faculty of the said College shall consist of a President and such Professors or Tutors as the Trustees may from time to time appoint; and neither the said President of the College, nor the said Professors or Tutors, during continuance in office, shall be Trustees of the said College.

VI. *Be it further enacted*, That the said city council of Charleston shall in no case be chargeable for expenses incurred by the said College, except such as shall be sanctioned by them, and for which appropriation shall be made according to law.

VII. *Be it further enacted*, That such provisions in former Acts of the General Assembly of this State respecting the said College of Charleston, as are repugnant to or inconsistent with this Act, be, and the same are hereby, repealed.

In the Senate House, the twentieth day of December, in the year of our Lord one thousand eight hundred and thirty-seven, and in the sixty-second year of the Sovereignty and Independence of the United States of America.

PATRICK NOBLE, *President of the Senate.*

D. L. WARDLAW, *Speaker of the House of Representatives.*

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AN ACT TO AUTHORIZE THE CITY COUNCIL OF CHARLESTON TO CLOSE
FORT-STREET AND PART OF CHURCH-STREET IN SAID CITY. No. 2739.

I. *Be it enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the city council of Charleston be, and they are hereby, authorized and empowered to close, shut up and discontinue the portion of South Bay-street in the said city, commonly called Fort-street, or so much thereof as they may deem expedient, in order to continue South Bay-street, as nearly as practicable, in a direct line from its junction with Meeting-street to East Bay-street; and also to close, shut up and discontinue the portion of Church-street in the said city, lying south of Fort-street aforesaid; and the portions of said street so closed, shut up and discontinued as aforesaid, shall become and be the absolute property in fee simple of the said city council of Charleston; *Provided*, that the said city council of Charleston shall and do fully compensate the owners of lands or buildings fronting on such portions of said streets as shall be closed, shut up and discontinued as aforesaid, for any consequent injury or depreciation of their property; which said injury or depreciation shall be ascertained and awarded by commissioners to be appointed and to proceed in like manner as is prescribed in the second, third and fourth sections of an Act passed on the twenty-first day of December, in the year of our Lord one thousand eight hundred and thirty-six, entitled "An Act to authorize the city council of Charleston to close Amen-street, in Charleston; and for other purposes."

In the Senate House, the twentieth day of December, in the year of our Lord one thousand eight hundred and thirty-seven, and in the sixty second year of the Sovereignty and Independence of the United States of America.

PATRICK NOBLE, *President of the Senate.*

D. L. WARDLAW, *Speaker of the House of Representatives.*

AN ACT TO AMEND THE ACT DIRECTING THE REPRESENTATION IN THE
CITY COUNCIL TO BE APPORTIONED EVERY SEVEN YEARS. No. 2743.

I. *Be it enacted*, by the honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, that it shall be the duty of the mayor and aldermen of the city of Charleston, on or before the first day of August, Anno Domini one thousand eight hundred and forty-one, to apportion the number of aldermen to which each of the wards of the city may be entitled, on equal principles of population and the city taxation for said year; *Provided always*, that the whole number of aldermen for the said city shall not exceed twelve, whose qualification shall be the same as now directed by law.

II. *And be it further enacted* by the authority aforesaid, That it shall be the duty of the mayor and aldermen of the city of Charleston, every ten years, after the year eighteen hundred and forty-one, to apportion the ward representation precisely on the principles above stated.

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III. *And be it further enacted*, by the authority aforesaid, That all Acts or clauses of Acts contrary or repugnant to the provisions of this Act, be, and the same are hereby, repealed.

In the Senate House, the first day of June, in the year of our Lord one thousand eight hundred and thirty-eight, and in the sixty-second year of the Sovereignty and Independence of the United States of America.

PATRICK NOBLE, *President of the Senate.*

D. L. WARDLAW, *Speaker of the House of Representatives.*

No. 2744.

AN ACT FOR REBUILDING THE CITY OF CHARLESTON.


I. *Be it enacted*, by the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the Governor of the State of South Carolina be, and he is hereby, authorized and directed, in the name of the said State, to issue bonds or other contracts, to be countersigned by the Comptroller-general, not exceeding in all the sum of two millions of dollars, one million of which shall be payable at the expiration of twenty years, and the other million at the expiration of thirty years, at a rate of interest not exceeding six per cent, for the purpose of procuring a loan on the credit of the State, to rebuild that portion of the city of Charleston now lying in ruins; that the said bonds or contracts be issued in such form and for such sums, and the principal and interest be made payable at such times and places, as shall be most effectual in procuring the said loan upon the best terms, either in Europe or America; and that the faith and funds of the State of South Carolina be, and the same are hereby, pledged to secure the punctual payment of the said bonds or contracts, with the interest thereon.

II. That in order to effect the said loan, the Governor is authorized and directed to commission such agent or agents as the President and Directors of the Bank of the State of South Carolina shall appoint, which said agent or agents shall be empowered to receive the said bonds or contracts from the Governor and Comptroller-general, and to make all such arrangements as in his or their judgment may be deemed expedient for procuring the said money and placing it to the credit of the State, subject to the draft or order of the President of the Bank of the State of South Carolina.

III. The money, when realized in Charleston, shall be deposited in the Bank of the State of South Carolina, and shall become a part of the capital thereof.

IV. The President and Directors of the said Bank are authorized and required to loan to such applicants as will rebuild the portion of the city of Charleston which has been destroyed by the late fire, two millions of dollars, if so much be required, under the following terms and regulations, viz:—

CLAUSE I. As soon as the said loan, or any portion thereof, may be effected, any applicant desiring to build upon the said burnt district, may avail himself of the benefit thereof, by making application to the said Bank, setting forth the plan and estimated cost of the building he proposes to erect, together with the situation and dimensions of the lot whereon

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the building is to be placed, and an abstract of his title thereto; and upon the President and Directors of the said Bank being satisfied with the title, and that it is free from incumbrances, they shall direct the said lot to be valued by the commissioners hereafter named, who shall certify their valuation to the said President and Directors, whereupon the said President and Directors are authorized and instructed to loan to the said applicant one half the appraised value of his said lot; and all applications for the said loan shall be made within two years from the passing of this Act.

CLAUSE 2. The applicant shall enter into bond, in a sufficient penalty, with condition to pay to the President and Directors of the said Bank of the State, the principal sum of whatever may be loaned him, in ten equal annual instalments, the first of which shall be payable within three years from the date of the bond; also, with condition to pay the interest annually; also, with the further condition, that the money loaned shall, within one year from its receipt, be expended in the erection of brick or stone buildings upon the said lot of land; and also, that the said applicant shall, in all respects, comply with the provisions of this Act; and the said bond shall be secured by a mortgage of the lot of land, and the form and nature of such bond and mortgage shall be prescribed by the President and Directors of the said Bank, under the advice and direction of the Attorney-general; and if the said mortgage should at any time become forfeited, either by failure to pay any part of the principal or interest of the said debt at the time specified, or by a breach of any of the conditions of the said bond, the President and Directors of the said Bank shall and may, after six months notice to the obligor, his heirs, executors, administrators or assigns, either personally served or published in one or more public Gazettes in the city of Charleston, proceed to sell the property mortgaged, by auction, for ready money, for the best price that can be obtained for the same; which said sale shall be advertised for three weeks previously, in one or more of the public Gazettes of the city of Charleston; and the monies arising from such sale shall be applied by the President and Directors of the said Bank in satisfaction of the said bond; any law, usage or custom to the contrary thereof in any wise notwithstanding; and the purchaser at such sale, his heirs and assigns, shall be deemed to be seized of a good and absolute and legal estate in fee simple, of the premises purchased, as against all persons whomsoever, their heirs and assigns, not claiming by or under a paramount title.

CLAUSE 3. Whenever the amount first loaned shall have been expended in the erection of buildings as aforesaid, the said applicant, his heirs at law, legal representatives, or assigns, may make application for a further loan, whereupon the President and Directors of the said Bank shall cause the said commissioners to ascertain and report whether the sum originally loaned has been applied as aforesaid, and upon the same being certified to the said President and Directors, they shall make to such applicant, his heirs at law, representatives and assigns, a further loan, equal in amount to one half the appraised value of the said lot, should so much be necessary to complete the improvements thereon, which said loan shall be taken upon the same terms and subject to the same conditions as the first; and a further loan shall be made equal to one half the value of the lot, should so much be required to complete the improvements thereon, whenever the said commissioners shall certify to the President and Directors of the said Bank, that the amount already loaned has been actually expended agreeably to the provisions of this law, and as soon as a good policy of insurance

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upon the property, to the extent of the amount previously loaned, shall have been duly assigned to the Bank ; and the said additional loans shall be taken subject to the same conditions, and shall be secured in the same manner, as the first. And in case any part of the said two millions shall remain after making the said loans, the same may be lent to any applicant, or his heirs at law, representatives or assigns, for the purpose of completing his improvements, upon such securities as may be deemed satisfactory by the President and Directors of the said Bank.

CLAUSE 4. The valuation of the lots upon which the said loans are to be made, and also the certificates of expenditures upon the buildings, shall be made by a board of five commissioners, two of whom shall be appointed in behalf of the State by the Bank, and two in behalf of the City by the city council, and a fifth to be chosen by the other four ; and in case any vacancy occur, it shall be filled by the same parties who had appointed to the place so become vacant ; and the said board, or a majority (having been first duly sworn to the faithful discharge of their duty,) shall, in all cases where a loan is to be made or increased, certify their valuation to the Bank, and make such report of facts as may be necessary and proper to enable the said Bank to discharge its duty to all interests concerned.

CLAUSE 5. In all cases where the value of the lot has been loaned, it shall be the duty of the borrower to cause insurance to be effected upon the buildings thereon, and to keep the same renewed, for the amount of the loan, or so much thereof as may remain unpaid, and to assign the policy to the Bank as collateral security ; and in case the said borrower shall neglect so to do, the Bank shall cause insurance to be effected or renewed in behalf of the President and Directors of the said Bank, and shall demand from the said borrower the premium of insurance paid, and all expenses, and if the same are not paid within one month, then the bond given by such borrower shall be considered forfeited, and he shall forthwith be bound to pay up the whole of his debt, as though the instalments had all been made payable at such date of forfeiture, if the said Bank shall deem it expedient to require payment of the same ; and in all cases where a policy of insurance is required by this Act, the Bank may accept in lieu thereof some other collateral security.

CLAUSE 6. No loan shall be made upon any lot upon which there may be a wooden building, unless sufficient security be first given that the same shall be removed within one year from the passing of this Act.

CLAUSE 7. The interest to be charged on the said loans shall be fixed at as low a rate as will cover the interest to be paid by the State, with the necessary charge of remittance, but the said rates shall in no event exceed seven per cent per annum.

V. Before the said loan is effected, the city of Charleston shall, by an ordinance to be duly ratified by the city authorities, guaranty the State against all loss to arise from loans to be made to the citizens of Charleston under the authority of this Act.

VI. The lessee or tenant for life of any lot of lands within the said district, shall be allowed the benefit of the provisions of this Act, if the owner of the reversion or remainder join in the mortgage to secure the amount loaned, in such form as may be advised by the Attorney-general.

VII. The mortgage executed by the applicant shall be a charge upon the land in favor of the said Bank and its assigns, from the date of its registry in the office of Mesne Conveyance, against all persons

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whomsoever; and all mortgages shall be recorded, or lodged in the Register's office for record, by the applicants, before any money shall be paid by the Bank.

VIII. And *whereas*, the frequent visitations of the city of Charleston by fire, the destruction of property, and the loss of life occasioned thereby, admonish the State of the evil of permitting other than fire-proof buildings in the said city; and whereas, the funds of the State herein authorized to be advanced on the security of buildings in the said city may be endangered, and no inducement is offered to individuals to erect fire-proof buildings, so long as others are allowed to build in their immediate neighborhood of combustible materials; for remedy whereof; *Be it enacted*, that hereafter it shall not be lawful to build, put, erect or construct, within the city of Charleston, any wooden or framed building, or to cover any building with a roof of combustible materials; and every building or construction framed or constructed of wood, or having more wood on the outside thereof, or the roof of which is constructed otherwise than is prescribed by an ordinance ratified by the city council of Charleston on the eighth May, of the present year, entitled "An Ordinance to prevent the erection of wooden buildings, and to provide greater security from fires," shall be, and is hereby declared to be, a public and common nuisance, and, as such, shall be abated by the judgment and process of any court of competent jurisdiction; and the persons respectively, building, covering or constructing, or instrumental in building, covering or constructing, any building, roof or construction, contrary to this Act, or to the provisions prescribed in the said ordinance, shall be subject to the same penalties in all respects as are prescribed by the said ordinance; and all additions which shall be made to houses or buildings already erected, and all houses and buildings which shall be erected on old foundations, in part or in whole, shall be deemed and considered within the provisions, restrictions and regulations of the said ordinance and of this Act; and full power and authority are hereby granted and confirmed to the city council of Charleston to determine the materials, thickness and construction of the walls and other parts of the buildings of different dimensions and character within the said city; and to make such other provisions by law, as they may deem expedient to promote the erection of safe and convenient fire-proof buildings, and to provide greater security to the said city from fires; *Provided always*, that none of the securities against fire, prescribed by this Act, shall be diminished by any action of the city council; and *provided also*, that the marshes flowed by the tide within the said city, shall be excepted only to such extent as has been excepted by the said city council.

IX. And *whereas*, the whole property in which the funds of the State are authorized by this Act to be invested, may be also greatly endangered by the wooden buildings and sheds already erected upon the said burnt district since the late fire; *Be it enacted*, that every wooden building erected upon the said burnt district, be, and the same is hereby declared, a public nuisance, and as such, shall be abated as aforesaid. And it shall be the duty of the mayor and aldermen of the city of Charleston to cause the same to be abated or removed at any time after the expiration of one year from this date, giving to the persons occupying the same, at least three months previous notice of their intention to remove the same and all persons who shall receive damage to their property by reason of such removal, may apply by petition to the court of common pleas, who shall

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thereupon cause the damage to be assessed by a jury, in view of the premises, and after having heard the parties, or their counsel; and the jury, in assessing the damages, shall take into consideration the advantage which may accrue to the petitioner by surrounding his premises with brick instead of wooden buildings; and the damages so found by the jury shall be paid by the city corporation to the party entitled; and in case the city council, before removing the said building, shall prefer to have the damages assessed, it shall be lawful for them to file their petition in the said court, giving notice to the owner or person in possession, and thereupon, the said court shall cause the damages to be assessed by a jury as aforesaid, and the finding of the jury shall be conclusive upon all parties; *Provided always*, that the city shall not be bound to indemnify or pay damages for any building which has been erected or constructed contrary to the provisions of the ordinance hereinbefore mentioned and referred to.

X. It shall be the duty of the President and Directors of the Bank of the State of South Carolina, to make proper provisions for the punctual payment of the interest of such loan as may be effected upon the credit of the State under the provisions of this Act; and also for the ultimate payment of the principal thereof.

XI. It shall be the duty of the President and Directors of the Bank of the State of South Carolina, to cause to be opened in the books of the said Bank, an account, in which they shall debit themselves with the profits arising out of the additional capital created out of the two millions loan aforesaid, for the year ending on the first day of October, in the year of our Lord one thousand eight hundred and thirty-nine, and with all the future profits of the said loan, as the same shall hereafter be annually declared; which said fund, with its annual accumulations, shall be considered solemnly pledged and set apart for the payment of the interest on the said loan, and the final redemption thereof; and it shall be the duty of the President and Directors of the said Bank, annually to report to both branches of the Legislature the exact state of that fund.

XII. When the profits of the said Bank of the State of South Carolina shall have paid the interest of certain stocks and redeemed the said stocks, for which they have heretofore been pledged and set apart, the said profits shall also be considered solemnly pledged and set apart for the payment of the interest on the said loan, and the final redemption thereof.

XIII. The said President and Directors shall make such additional compensation to the Attorney-general, as they may deem sufficient for the additional services required of him by this Act; and they shall also make provision for paying such expenses as may be incurred by the Bank, in carrying this Act into effect.

In the Senate House, the first day of June, in the year of our Lord one thousand eight hundred and thirty-eight, and in the sixty-second year of the Sovereignty and Independence of the United States of America.

PATRICK NOBLE, *President of the Senate.*

D. L. WARDLAW, *Speaker of the House of Representatives.*

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AN ACT TO AUTHORIZE THE CITY COUNCIL OF CHARLESTON TO CLOSE AND DISCONTINUE ELLERY-STREET. No. 2760.

I. *Be it enacted* by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the city council of Charleston be, and they are hereby, authorized and empowered to close and discontinue as a public highway, Ellery-street in the city of Charleston, from Anson-street to East Bay-street; *Provided*, the city council do first purchase from the proprietors the lots on both sides of the said street, on such terms as may be mutually agreed on between the parties, or do first make such compensation to the proprietors of land on both sides of said street, for the damage they may sustain by closing the same, as may be mutually agreed on by the city council and proprietors.

In the Senate House, the nineteenth day of December, in the year of our Lord one thousand eight hundred and thirty-eight, and in the sixty-third year of the Sovereignty and Independence of the United States of America.

A. PATTERSON, *President of the Senate.*

D. L. WARDLAW, *Speaker of the House of Representatives.*

AN ACT TO AMEND AN ACT FOR REBUILDING THE CITY OF CHARLESTON. No. 2769.

I. *Be it enacted*, by the Senate and House of Representatives, now met and sitting in General Assembly, That the Act of the General Assembly of this State, ratified on the first day of June last, entitled "An Act for rebuilding the city of Charleston," be, and the same is, amended in the following particulars.

1. The applicant for a loan may execute a single bond with a penalty sufficient to cover all loans which may be made to him in virtue of the said Act, and a single mortgage to secure the said bond; and the said bond and mortgage shall be so framed by the Attorney-general as to embrace all the loans which may be made under the said Act; and the mortgage, so executed, shall be deemed and taken as effectual to protect and secure all such loans as are within the amount of the penalty of the bond, in the same manner as though the whole amount which shall be subsequently loaned had been loaned at the date of the said bond and mortgage.

2. The applicants for the said loan shall be required to furnish the Bank only with an abstract of their title, and with such title deeds as may be in their possession not recorded. They shall not be required to furnish copies of any evidence or muniment of title or mesne conveyance which has been recorded in the proper public office.

3. The policy of insurance which shall be required from any applicant for a loan, shall be deemed sufficient, if taken for such amount as it is customary for insurance offices within the State to take upon any single risk.

4. Preliminary applications for the said loan shall be received by the Bank from any applicant, setting forth the plan and estimated cost of the building proposed to be erected, together with the situation and dimensions

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Acts relating to the City of Charleston.

of the lot whereon the building is to be placed; and the President and Directors of the Bank, upon receiving such application, shall, even before information as to the condition of the title, direct the lot to be valued by the commissioners appointed for that purpose; and the said commissioners shall value the same, and certify their valuation, in the manner provided by the Act of which this is an amendment; and the President and Directors of the Bank shall thereupon inform the applicant of the sum to which he will be entitled on complying with the provisions of the law; but no loan shall actually be made until the applicant shall fully have complied with the provisions of the Act above referred to, as amended by this Act.

II. *And be it further enacted*, That the fees of each public officer who shall furnish certificates to be used in procuring the said loan, shall be, as is usual, $12\frac{1}{2}$ cents for searches through all their books for each name, and $62\frac{1}{2}$ cents for their certificate; but no public officer shall demand or receive from any applicant for the said loan more than two dollars for all searches, certificates and services, which may be made, given or rendered in his office for the said applicant upon any one application for a loan; and every public officer who shall demand or receive more than two dollars for all searches, certificates and services, inclusive, or who shall refuse to perform the usual duties of his office at the request of any such applicant, shall be deemed guilty of a misdemeanor, and upon conviction thereof, before any court of competent jurisdiction, shall be subject to fine and imprisonment at the discretion of the court.

III. *Be it further enacted*, That no charge shall be made against any applicant for a loan by the Attorney-general, for the bond and mortgage required to be taken by the Bank, nor for any other professional services rendered by him in the arrangements for a loan.

IV. *And be it further enacted*, That any person owning a lot upon which a brick or stone building shall have been commenced since the fire of April last, shall be entitled to receive all the instalments of the loan, which he could have claimed under this or the former Act if he had made application before the commencement of the work; *Provided*, he shall substantially comply with all the conditions required of an original applicant who shall have received the same number of instalments, and shall substantially give to the Bank security equal to that which would have been required of such original applicant.

In the Senate House, the nineteenth day of December, in the year of our Lord one thousand eight hundred and thirty-eight, and in the sixty third year of the Sovereignty and Independence of the United States of America.

A. PATTERSON, *President of the Senate.*

D. L. WARDLAW, *Speaker of the House of Representatives.*

ACTS RELATING TO COURTS.

AN ACT FOR ESTABLISHING A COURT OF CHANCERY IN THIS HIS NO. 441. MAJESTY'S PROVINCE OF SOUTH CAROLINA.

WHEREAS, for the due administration of right, equity and justice, to his Majesty and his subjects inhabiting and trading to this his Province of South Carolina, there is a necessity for establishing a Court of Chancery; we humbly pray his most sacred Majesty that it may be enacted,

Preamble.

I. *And be it therefore enacted*, by his Excellency Francis Nicholson, Esquire, Governor, by and with the advice and consent of the Council and Assembly of this Province, and by the authority of the same, That from and immediately after the ratification of this Act, his Majesty's Governor of this Province for the time being, and the majority of the honorable the members of his Majesty's Council, from time to time substituting, are hereby authorized and empowered, at all times hereafter, to hold a court of chancery; and shall have, exercise and use the same jurisdiction, power and authority, in granting and issuing forth all original and remedial writs and other process whatsoever, and in hearing, adjudging and determining all causes and suits in equity, in as full and ample manner as any chancellor, or court or courts of chancery, in America, can, may or ought to do.

The Governor and a majority of the Council, empowered to hold a Court of Chancery.

II. *And be it further enacted* by the authority aforesaid, That all writs and process issuing out of the said courts of chancery, (except such writs as are hereinafter excepted) shall be signed by the register of the same court, and shall be granted of course by the said register, to any person or persons whatsoever, who shall apply for the same; such persons paying the fees allowed by law for such writs and process.

Writs and process shall be signed by the Register.

III. *And be it further enacted*, That no injunction for staying suits at law, or for staying execution, shall, at any time hereafter, be granted out of the court of chancery of course, or by surprise, but upon the bill of complaint

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Injunction for staying suits, when to be granted. being first filed in the said court, and two days notice at least given by the party complainant, to the adverse party, his or her council or solicitor, in writing, that he intends to move the said court for such injunction, expressing in the said notice in writing the place where and the time when he intends to move for the same, to the intent that the adverse party may have due notice, and attend to oppose the granting such injunction, if he shall see fit.

Complainant to make oath to his bill.

IV. And *whereas*, the parties do often obtain injunctions upon notorious false and groundless suggestions in the bill of complaint set forth; for the prevention of such abuses, *Be it enacted*, That the party complainant, or his or her solicitor, shall make oath (if required) that he or she believes the allegations in his or her bill of complaint, for obtaining injunctions, to be true.

No injunction to be granted until the thing for which judgment is given be deposited in Court.

V. *And be it also enacted*, That in cases where any person or persons pray an injunction to stay any suit or suits at law, had and commenced against him or them, on any bond, single bill, promisory note, bill of exchange, or other specialty whatsoever, whereby any sum or sums of money are payable, or conditioned to be paid, or to stay execution after a judgment at law is had and obtained against him or them, for any debt or duty whatsoever, no such injunction shall be granted until the sum or sums of money, or other matter or thing conditioned to be paid, or for which judgment is given, shall be deposited and paid into the hands of the said court; and that no injunction whatsoever shall continue of force any longer than till the sitting of the next court, after the party defendant shall have put in his answer to the bill of complaint, unless the court shall see cause to continue the same: *Provided*, that nothing in this Act be construed or deemed to extend to injunctions for staying of waste, but that all injunctions for staying of waste be granted of course, on affidavit made before the master of the same court, that the party praying such injunction hath been three years in the quiet and peaceable possession of the lands where such waste shall be said to be committed.

Except injunctions for staying of waste.

Court days, and duty of Register.

VI. And for the prevention of any delays in the proceedings of the court of chancery, *Be it enacted* by the authority aforesaid, That the said court of chancery shall be always open for the dispatch of all matters relating to the forwarding and finishing the causes depending in the said court, but the days and times of full and solemn hearings shall be four times in every year, (that is to say) on every Thursday next after the court of common pleas is directed to meet and sit in Charlestown, and shall at such times sit *de die in diem*, until the business ready for the said court shall be finished; and the register of the court, twelve days at least before the sitting of each court, shall fix, at the public watch-house in Charlestown, a list of all causes wherein any hearing is to be at the court ensuing; and in case there shall be no business to do at any of the times herein before appointed for the sitting of the court, the said register shall in like manner give public notice thereof at the watch-house aforesaid, and the court shall be adjourned of course until the next day hereby appointed for the sitting thereof; and all the officers of the said court shall reside in Charlestown, and give their personal attendance, on pain of being removed from their respective offices.

In what cases the chief justice or members of council shall not vote in the court of chancery.

VII. *And be it further enacted* by the authority aforesaid, That no chief justice or judge of any court within this Province, shall at any time hereafter have any vote in the court of chancery where the defendant at the common law becomes plaintiff in the court of chancery, and the cause

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hath been pending before him; and that no member of his Majesty's Council shall vote in the said court in any cause wherein he is plaintiff or defendant, or wherein he acts as executor or administrator, trustee, guardian or attorney to any person or persons whatsoever.

VIII. *And be it further enacted* by the authority aforesaid, That in case any person or persons shall not rest satisfied with the judgment of the said court of chancery, in any cause or suit where the matter in difference does exceed the value of three hundred pounds sterling, that then it shall and may be lawful to and for all and every such person and persons to appeal to his Majesty, his heirs and successors, in his and their privy council in Great Britain; *provided*, that such appeal be craved within one month after such judgment, sentence or decree given by the said court of chancery, and that before such appeal be allowed, security be given by the party or parties so appealing, in double the value of the matter in difference, to pay or answer the sum or value of the thing adjudged, together with all such costs and damages as shall be awarded by his said Majesty, his heirs or successors, in his or their privy council, in case the said judgment, sentence or decree of the said court of chancery be affirmed: *Provided also*, that no execution on such decree shall be stayed or suspended by reason of such appeal, so as the party suing or taking out such execution, do in like manner give security, to the value only of the matter in difference, to make restitution in case the said judgment, sentence or decree be reverted or annulled upon the said appeal, in three years next after giving or making such judgment, sentence or decree by the said court of chancery.

In what case persons may appeal.

IX. *And be it further enacted*, That the Governor for the time being, and any five of the members of his Majesty's honorable council, shall have power to grant injunctions; and that the master of the said court for the time being shall have power to hear all motions of course, and make orders thereon; any thing herein contained to the contrary notwithstanding.

Execution not to be stayed by reason of such appeal.

Governor and five members of council may grant injunctions.

X. *And be it further enacted* by the authority aforesaid, That the said court shall proceed, adjudge and determine in all causes brought into the said court, as near as may be, according to the known laws, customs, statutes and usages of the Kingdom of Great Britain, and also as near as may be, according to the known and established rules of his Majesty's high court of chancery in South Britain.

How the court shall proceed.

XI. *And be it further enacted* by the authority aforesaid, That all or any Acts or Ordinances of Assembly heretofore made, whereby any court of chancery has been erected or constituted in this Province, (if any such there be) be hereby declared repealed and null and void to all intents and purposes, in such manner as if no such Act or Ordinance had ever been made.

All former Acts repealed.

JA. MOORE, *Speaker.*

Charlestown, September 9, 1721.

Assented to by

FR. NICHOLSON, *Governor.*

A. D. 1721.

Acts relating to Courts.

No. 473.

AN ACT FOR ESTABLISHING COUNTY AND PRECINCT COURTS.

Preamble.

WHEREAS, it hath been found a great charge and burthen to the several inhabitants of this Province, to be obliged to repair from all parts of the country to one general court at Charlestown, for the trial of all causes, whether civil or criminal; and by reason of the parties and witnesses living at such great distances, divers suits have been delayed and protracted, several persons discouraged from seeking and recovering their just rights, and his Majesty's peace less orderly kept. We therefore humbly pray your most sacred Majesty that it may be enacted,

Courts established.

I. *And be it enacted*, by his Excellency Francis Nicholson, Esquire, Governor, &c. by and with the advice and consent of his Majesty's honorable Council, and the Assembly of this Province, and by the authority of the same, That a court of pleas, assize and gaol delivery, shall be forthwith erected and established in Berkley county, at the place commonly called Wassamsaw, in the parish of St. James Goose creek, to Turkey creek, St. George's, and St. John's shall be annexed and attendant, and all pleas, civil and criminal, happening or arising within the same parishes, be decided and determined; and also one other court of pleas, assize and gaol delivery, at Echaw, in the parish of St. James Santee, in Craven county, in such convenient part or place thereof as the judges of the said court shall see fit; at which court, all the inhabitants of Craven county aforesaid shall be attendant, and all pleas, civil and criminal, happening or arising within the same, be decided and determined; and also one other court of pleas, assize and gaol delivery, at Willtown, in Colleton county, in such convenient part or place thereof as the judges of the said court shall see fit, to which said court all the inhabitants of the said county shall be attendant, except the inhabitants of John's Island, which shall be attendant at the general court at Charlestown, and all pleas, civil and criminal, happening or arising within the same, be decided and determined; and also one other court of pleas, assize and gaol delivery, at Beauford-town, in Granville county, at which court all the inhabitants of Granville county shall be attendant, and all pleas, civil and criminal, happening or arising within the same, be decided and determined.

Court of common pleas to be erected in Wando precinct.

II. *And be it further enacted* by the authority aforesaid, That one other court of pleas, assize and gaol delivery, shall be forthwith erected and established at or near the plantation of Lewis Dutarque, in Berkley county, as the justices shall agree, and shall be called Wando Precinct, at which said court the several parishes of St. Thomas's, St. Dennis's and Christ Church shall be attendant, and all pleas, civil and criminal, happening or arising within the same, be decided and determined.

Five magistrates to be judges of the county courts.

III. *And be it further enacted* by the authority aforesaid, That any five of the magistrates of the said parishes and precincts respectively, who shall be in the commission of the peace, and shall be commissioned, by his excellency the Governor for the time being, for that purpose, shall be judges and justices of the said county and precinct courts, respectively, any three whereof shall be a quorum, and shall have full power to associate and assemble themselves, at the respective courts within their respective jurisdictions, at such days and times as hereinafter is prescribed, and being there associated and assembled, shall have full power to hold pleas of all matters, civil and criminal, within their said respective jurisdictions, according to the laws, usage and customs of the Province of South Carolina, so that such laws be not repugnant to the laws of Great Britain, but as near as may be agreeable thereto.

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IV. *And be it further enacted* by the authority aforesaid, That the first in commission shall be president of the court, and in case he be absent by reason of sickness or other accident, the next in commission shall act as president, and so of the rest successively and in course, as they shall be named in the said commission; and the president of the said court shall administer unto the other justices, before they enter on their offices, the following oath: "I, A. B. do swear that I will do equal and impartial justice in all causes that come before me in the precinct court of _____ without favor or affection to either party, and that I will not receive myself, nor suffer any other person to receive for my use, benefit or advantage, any present of money or money's worth, on account of any action at any time pending in the said court, excepting the fees allowed to me by law." And then shall take the same oath himself from the hand of one of the other justices.

One of them to be President.

Oath.

V. *And be it further enacted* by the authority aforesaid, That the said judges and justices shall meet and assemble themselves at their respective courts, at such days and times as hereinafter are mentioned, (that is to say,) the said precinct court at Wassamsaw, in Berkley county, on the second Tuesday in January, April, July and October: The said court called Wando precinct, on the second Tuesday in December, March, June and September: The said court in Echaw, in Craven county, on the third Tuesday in December, March, June and September: The said court at Willtown, in Colleton county, on the last Tuesday in January, April, July and October; and the said court at Beauford town, in Granville county, on the last Tuesday in February, May, August and November; between the hours of nine and ten in the morning, and there sit *de die in diem*, not exceeding three days, till the business of the said court be finished; and what business cannot be finished by the time abovesaid, shall be continued over until the meeting of the next court; *provided* ^{When to meet, &c.} *always nevertheless*, that nothing herein before contained shall extend or be construed to give power to the said county or precinct courts, to hold plea of any criminal matter extending to life or limb, but that the same shall be tried and determined at the general sessions to be holden at Charlestown; and the jurors shall be drawn out of the balloting box from the whole Province, as heretofore hath been used: *provided also*, that in civil causes, if the matter in difference do exceed the value of one hundred pounds sterling, the same shall be decided and determined at the general court to be holden for the said Province at Charlestown, as hereinafter is mentioned: and that no *habeas corpus cum causa*, be allowed for removing the cause or body of the defendant out of the said county or precinct court, unless the cause there brought be for above the said sum of one hundred pounds.

Limitation of jurisdiction.

VI. *And be it further enacted* by the authority aforesaid, That if any person shall not rest satisfied with the judgment of the said courts hereby erected, in any cause or suit where the matter in difference does not exceed the value of twenty-five pounds sterling, that then it shall and may be lawful to and for all and every such person or persons to appeal to the general court, to be holden four times in every year in Charlestown, as usual; and the said general court shall have full power to hear and determine all such appeals, and confirm or reverse such judgments on hearing said appeals, as may be consistent with the laws and statutes of Great Britain, and according to the laws, usage and customs of South Carolina, not repugnant thereto; *Provided*, that such appeals be craved at the time

Right of Appeal.

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that such judgment be given in the said county or precinct courts, or at the next sitting thereof, and that before such appeal be allowed, the parties so appealing do enter into a bond or recognizance before the said court, in double the value of the matter in difference, to pay or answer the sum or value of the sum or thing adjudged, together with all such costs as shall be awarded by the said general court, in case the said judgment be affirmed; *Provided also*, that no execution of such judgment in the county and precinct courts shall be stayed or suspended by reason of such appeal, so as the party taking out such execution do in the like manner enter into bond or recognizance before the said court, with sufficient security, to the value of the sum or other matter adjudged and recovered, to make restitution to the appellant, if such judgment be reversed or annulled by the said general court, in twelve months after obtaining such judgment in the said county or precinct courts.

Penalty for
vexatious ap-
peals.

VII. And to prevent as much as may be litigious and vexatious appeals, *Be it further enacted* by the authority aforesaid, That in case the judgment be affirmed, and the judges of appeals shall be of opinion that such appeal was groundless and vexatious, they shall certify the same on the back of the said appeal; and that then and in such case, the party appellant shall pay and satisfy to the appellee treble the costs of suit awarded in the said county or precinct courts.

Clerk not to
practice as at-
torney.

VIII. *And be it further enacted* by the authority aforesaid, That no clerk of any county or precinct courts shall act as an attorney or solicitor, in any cause whatsoever, either in the court where he is clerk, or in any other county or precinct court, or on any appeal from the said court whereof he is clerk, under the penalty of one hundred pounds current money, for every time he shall offend in the premises, to be recovered by action of debt, bill, plaint or information, in any court of record in this Province; one half to the informer, and the other half to the church-wardens, for the use of the poor of the parish, and the loss of his office.

Action, where
to be brought.

IX. *And be it further enacted* by the authority aforesaid, That if the defendant live in the parish of St. James Goose Creek, in the parish of St. George's, or in the parish of St. John's, the action shall be brought and the *venire* laid in the parish where the defendant lives or is arrested, and the cause tried and determined at the said precinct court, to be held at Wassamsaw; and if the defendant live in Wando precinct, the action shall be brought, the *venire* laid, and the cause tried, in Wando precinct; and if the defendant shall happen to live or be arrested in other part of Berkley County, the action shall be brought, the *venire* laid, and the cause tried and determined, at the general court of pleas or sessions to be holden at Charles-town; and if the defendant shall happen to live in Craven county, Colleton county, or Granville county, the action shall be brought, the *venire* laid, and the cause tried, in the respective counties and precincts where the defendant lives or is arrested.

Merchants's
accounts may
be proved by
oath.

X. *And whereas*, it hath been heretofore allowed for law in this Province, that books of accounts shall be allowed for evidence, the plaintiff swearing to the same, by reason that the merchants and shopkeepers in South Carolina have not the same opportunity of getting apprentices and servants, to deliver out their goods and keep their books of accounts, as the merchants and shopkeepers have in South Britain, and it may prove inconvenient to the merchants and shopkeepers to send their books to the said county courts; *Be it further enacted* by the authority aforesaid, that such merchants, shopkeepers and others, shall be at liberty to draw out their accounts, and

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compare the same before any of the justices at Charlestown, and then to sign and swear to the same, which accounts so drawn out and sworn to as aforesaid, shall be allowed to be as good evidence as if the books themselves had been produced to the said court; *Provided nevertheless*, that all special courts for transient persons shall be holden in Charlestown, as heretofore hath been used.

XI. *And be it further enacted* by the authority aforesaid, That the original or first process issuing out of the said courts hereby erected respectively, shall be either *summons* or *capias*, which writ of *commons* or *capias* shall contain the declaration setting forth the cause of action, time and other circumstances on which the plaintiff grounds his complaint, and signed by the attorney as usual, and sealed by the clerk of the court in the margin thereof, a copy whereof shall be served on the defendant, or left at his house or most usual place of residence and abode, one calander month at least before the sitting of the court; and the defendant shall put in his plea, and file the same with the said clerk the next meeting of the court, or otherwise, judgment shall pass against him by default, on oath being made of the service of the said writ or summons, and execution forthwith issue against the defendant; and if the plea be to issue, the cause shall be tried the following court of course, without any notice to be given by either party to the other of them; but if the said plea be special, and require a replication, the plaintiff shall reply or demur in six weeks after the sitting of the first court, without any rule or notice for that purpose, or a non-suit be entered by the clerk of the court of course, for want of such replication; and if need be, the defendant shall rejoin or join in demurrer at the second court, and the cause shall be then tried or argued of course, without any notice from either party to the other of them, so that every cause may be decided and determined at the second court at the farthest.

Manner of proceeding.

XII. And the justices of the said court, or the major part of them, shall and may establish such other rules of court for dispatch of business and the ease of the clients, not repugnant to this Act, as to them shall be thought reasonable.

Justices may make other rules.

XIII. *And be it further enacted* by the authority aforesaid, That writs of replevin, and all other original writs, shall and may be grantable out of the general court of Charlestown, and other the county and precinct courts hereby erected, as hath been allowed in the other American plantations.

Original writs, where grantable.

XIV. And to prevent circuitry of Actions, and multiplying of suits; if the plaintiff be indebted to the defendant, the defendant shall be at liberty, if he see fit, to give the same in evidence by way of discount, and the same shall be noted, and judgment entered up for the balance only; and if the plaintiff be indebted to the defendant more than the defendant is indebted to the plaintiff, judgment shall be entered up for the defendant for the overplus, and execution go against the plaintiff for such overplus, and the verdict shall be special, and the judgment entered up specially; *Provided nevertheless*, that the defendant intending to discount any sums of money alledged to be owing him by the plaintiff, do in one month before the trial, make a copy of such articles and sums which he intends to insist upon at the trial to have discounted, and deliver the same to the plaintiff or his attorney, one calander month before such cause comes to be tried, to the intent the plaintiff may be prepared to disprove the same if he see fit, and the articles of such discount shall be proved to the court by such vouchers and in such manner as the law requires.

Plaintiff being indebted to the defendant, to be discounted.

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give in a list.

XV. *And be it further enacted* by the authority aforesaid, That the captains of the several companies, in the several parishes of St. James Goose Creek, St. George's, St. John's, and Wando precinct, shall return, at the first meeting of the court, a list of the several names of all and every person belonging to their respective companies, in order that juries may be taken from thence to serve at the said courts; and the several Captains of companies, in Craven county, Colleton county, and Granville county, shall do the like.

Manner of bal-
loting for
jurors.

XVI. *And be it further enacted* by the authority aforesaid, That the clerks of the courts respectively, shall, at the precinct charge, prepare balloting boxes, for putting in the names of the persons to be appointed for jurors, after the method provided for the balloting boxes in the court of pleas in Charlestown; and the justices of the courts respectively shall have full power to prepare lists of the jurors, and put the same in the said balloting boxes, and shall draw out from thence twenty-four names for jurors, in every grand and petit juries, and juries for the common pleas, and no more; and the names of the jurors shall be sealed up by the justices and delivered to the marshal; and the said justices shall observe such other methods, as near as may be, for impanneling of jurors, as are prescribed in the several Acts of this Province concerning juries, not repugnant hereto. And if a sufficient number do not appear, then a *tales de circumstantibus* being moved for, shall be granted by the said judges, according to the usage of South Britain, and the laws in that case made and provided; and to prevent any abuse that may be made by the allowance of such a *tales*, the said justices are hereby required to put double the names that are wanting to make up the jury, into a hat, and draw out their names by balloting, until they have compleated the number of the jurors wanted; and the general court of Charlestown shall have the same power for granting a *tales de circumstantibus*, and shall observe the like method; and the *talesmen* refusing to serve, shall be subject to the same penalties as the other jurors; and every of the justices, jurors, coroners and constables not appearing at each court, shall be fined the sum of five pounds, to be levied on their goods and chattels the next court after their non-appearance, unless they shall then give satisfactory reasons to the court for their absence.

Fines for ab-
sence.

Forfeitures.

XVII. *And be it further enacted* by the authority aforesaid, That every witness who shall not appear at the respective courts, being duly served with a subpoena *testificandum* in civil causes, or appearing shall refuse to answer the questions proposed by the court, shall forfeit to the plaintiff or defendant, by whom he was so subpoenaed, the sum of twenty pounds current money, to be recovered by action of debt, to be brought in the name of the plaintiff, in any of the said county or precinct courts where such witness resides, with costs of suit.

Witnesses al-
lowed 10s. and
jurors 15s. per
diem each day.

XVIII. *And be it further enacted* by the authority aforesaid, That if any witness in any criminal cause, (not being bound over by recognizance to appear,) shall refuse or neglect to appear on service of subpoena, or appearing shall refuse to answer, shall be fined by the court any sum not exceeding twenty pounds current money, and stand committed till he pay the same; and the witnesses subpoenaed to appear at the general court of pleas or general sessions at Charlestown, and neglecting to appear, or appearing shall refuse to answer, shall be under the like penalties and forfeitures; and each witness shall be allowed for his attendance in civil causes, by the plaintiff or defendant who subpoenaed such witness, the sum of ten shillings per diem, current money, to be taxed in the bill of costs, and paid to

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the witness before he gives in his evidence, if he desire it; and the jurors shall be allowed in civil causes, each cause, fifteen shillings.

XIX. *And be it further enacted* by the authority aforesaid, That no jurors, being obliged to serve at any of the courts respectively, shall be obliged to serve at any other county or precinct courts out of the counties or precincts where they respectively live and reside, after the said courts are there respectively erected, unless it be at the court of general sessions in Charlestown; any law or statutes heretofore made to the contrary thereof in any wise notwithstanding.

Jurors not to serve out of the county where they live.

XX. *And be it further enacted*, That all matters of freehold shall be tried and determined in the respective courts of the counties and precincts where such lands do lie, though of never so great a value, any thing herein before contained to the contrary notwithstanding, allowing appeals nevertheless to the general court, if the value be above twenty-five pounds sterling, as in other cases.

Matters of free hold tried where the land lies.

XXI. *And whereas*, divers disputes do arise between the inhabitants about the lines of their respective plantations; *Be it further enacted* by the authority aforesaid, That if any cause shall be pending in the said courts where the lines shall be brought in dispute, the justices of the said court shall appoint surveyors, at the nomination of the parties, to survey the same at the charge of the said parties, and to return such survey on oath at the next sitting of the court; and in case either of the parties shall refuse to nominate a surveyor duly sworn and qualified, then the court shall proceed to nominate two or more such surveyors as they shall think fit, in order for the better finding out and discovering the truth of the said matter in difference; and if the court shall acquiesce in the return of the surveyors, so given in on oath as aforesaid, the same shall be allowed as evidence. And in case any action shall be brought for a trespass or waste, committed in the plaintiff's lands or tenements, the justices of the said courts shall have power to appoint two or more sufficient persons to view the said trespass or waste, if need be, who shall return an account thereof on oath, at the next court, and the true value of the damages occasioned by such trespass and waste, and the same shall be allowed as evidence, if the court shall see fit.

Where lines are in dispute, judges to appoint surveyors.

XXII. *And be it further enacted* by the authority aforesaid, That the said courts hereby erected, shall likewise have power to fine all persons for misbehaviour in court, not exceeding the sum of twenty pounds; and to commit persons to prison till they have paid the same; and the clerks of the said courts respectively, are hereby required to transmit an account yearly, of all the fines and forfeitures imposed in the said courts; and also, of all recognizances forfeited, into the court of exchequer, if any such there be, and if there be no such court, then to transmit such accounts and recognizances to the Governor and council, in order to be put in suit.

Persons misbehaving in court, to be fined.

Account of fines to be given into the court of exchequer.

XXIII. *And be further enacted* by the authority aforesaid, That the said courts hereby erected, shall have full power to imprison obstinate and incorrigible servants, who shall desert their master's service, or refuse to work, and to appoint their allowance to be bread and water, for which the marshal or keeper of the prison shall be allowed two shillings and six pence current money, per diem, in full for all fees, and no more, and to inflict corporal punishment, if they shall continue obstinate, as often as they in their discretion shall see needful, not exceeding twenty lashes each time on the bare back. And the said courts hereby erected, shall likewise have full power, within their respective jurisdictions, to license all taverns, victualling houses, ale houses, punch houses and public inns, and the same, or any of

Punishment of obstinate servants.

Taverns to be licensed.

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Forfeiture for
keeping tavern
without li-
cence.

Punishment of
disorderly per-
sons.

Concerning
bastards.

Legacies given
to free schools.

President to
determine right
of administra-
tion.

Power of the
courts concern-
ing orphans.

them, again to suppress, if they shall be convicted of being disorderly, as entertaining of servants, negroes, common drunkards, lewd and idle and disorderly persons, selling liquors on Sundays, or times of Divine service; and if any person shall keep any such tavern, victualling house, ale house, punch house or public inn, without license first had and obtained from the said justices, and signed by the President of the said court respectively, he shall forfeit the sum of twenty pounds current money, for every such offence, and give security for his good behaviour for the future, that he shall not hereafter keep any such tavern, ale house, punch house or public inn within the said counties or precincts, without a license first had and obtained from such justices; and also to take an account of all idle and disorderly persons, and to compel them to work and labor, and to betake themselves to honest employments, or to find sureties for their good behaviour, and to imprison them, and to compel them to labor in prison, or to inflict corporal punishment, till they shall do so; and also to punish all common drunkards, profane cursers or swearers, Sabbath-breakers, and to suppress all vice and immorality within their respective jurisdictions.

XXIV. *And be it further enacted* by the authority aforesaid, That the said courts hereby erected, shall have power to take order concerning all bastards, in as full and ample manner as is given to the chief justice, or judges of the court of general sessions, in and by an Act entitled "An Act against Bastardy," ratified the seventeenth day of September, 1703.

XXV. *And be it further enacted* by the authority aforesaid, That the said courts respectively shall have full power to sue for all legacies, gifts and donations given to free schools, and other public uses, within their respective counties, precincts and jurisdictions, and to appoint one or more treasurers for collecting the same, who shall be likewise treasurer for all sums levied in the said county, and in whose name or names all actions or suits, for such gifts, legacies and donations, shall be brought.

XXVI. *And be it further enacted* by the authority aforesaid, That the president of the several courts aforesaid, (except the chief justice for Charlestown) shall, with the advice and consent of the major part of the other judges, at the time of the sitting of the courts, have full power to determine the right of administration of the estates of persons dying intestate, in their several jurisdictions, and also all disputes concerning wills and executorships, in as full and ample manner as the same have or might have been heretofore determined by any Governor, or Governor and Council, of this Province, saving the right of appeal to the Governor and Council, in case any party shall find himself aggrieved thereby, and shall send such letters of administration, or letters testamentary, to be signed by his Excellency the Governor for the time being, who shall be allowed his usual fees, and the Secretary likewise: And the said justices are hereby required to take sufficient bond, with one or more good and sufficient sureties, for the party's due administration of the intestate's estates, according to law, which shall be entered of record in the said court: And the said judges and justices, or the major part of them, whereof the president to be one, shall have full power likewise, to take order concerning all orphans's estates, viz: That all orphans be duly educated and provided for, out of the interest and income of his estate and stock, if the same will bear it; otherwise such orphan to be bound apprentice to some handicraft trade, or other good employment, whereby he may learn to get his livelihood; to appoint guardians for such orphans, and to remove the same and appoint others, if there be occasion, and to change the masters to which such orphans are bound apprentice, if not taught their trade nor

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well maintained and clothed, or otherwise ill used: to call all guardians to an account for minor's estate; to take care that the land of orphans be not sold during their minority; that no waste be committed on orphans's plantations, as gathering of the lightwood, cutting down valuable timbers, &c., unless it be for and towards the maintenance of such orphans: to call all persons to account who shall have imbezzeled any orphans's estates, and to take all such methods as to them shall be thought most convenient for improving such orphans's estates, to the intent they may receive the benefit thereof, when they shall arrive at their full age of twenty-one years, (if not otherwise mentioned by the will of the testator) if males, or day of marriage, if females: And the proceedings therein shall be by petition, or bill and answer, to be brought by the *prochain amy*, or other person, in the name of the orphan, by the said courts to be appointed for that purpose: And the same courts shall have as full power as the ordinary or any court of law or equity has in that behalf; and shall keep a fair record of all their proceedings, in a book well bound, to be provided for that purpose; and that an attested copy of such proceedings, signed by the clerk of the court, shall be given to any person desiring it, paying reasonably for the same.

XXVII. *And be it further enacted* by the authority aforesaid, That where it shall appear to the said courts, that any executor or executors have wasted, embezzeled or squandered any minor's estate, the said county and precinct courts hereby erected, respectively, shall have full power to compel such executor or executors to account, and give bond, with good sureties, well and truly to account with such minors when of age, and pay and answer the value of such assets as are or shall come to their hands, of the testator's estate; and such bonds shall be made to the president of the said court, in trust for the said orphan.

To compell
executors to
account.

XXVIII. And the said courts hereby erected shall have power respectively, to inspect and examine into the accounts of all church-wardens and overseers of the poor, to the intent that the poor shall be sufficiently provided for, and to see and take care that the church-wardens do well and truly execute their offices, according to the powers and directions given them by virtue of any Act or Acts of Assembly of this Province in that case made and provided.

To inspect the
accounts of
church-
wardens.

XXIX. And *whereas*, divers unskilful persons do often undertake to manage and solicit business in the courts of law and equity, to the unspeakable damage of the clients, occasioned by the ignorance of such solicitors, who are no ways qualified for that purpose, tending to the promoting litigiousness, and encouraging of vexatious suits: *Be it therefore enacted* by the authority aforesaid, That no person whatsoever shall practice or solicit the cause of any other person, in the said county or precinct courts, or any other court of law and equity in this Province, unless he hath been heretofore admitted and sworn as an attorney, or hereafter shall be admitted and sworn as an attorney, by the chief justice and judges of the general and supreme court at Charlestown, under the penalty of one hundred pounds for every cause he shall so solicit, one half to his Majesty for the use of the public, and the other half to him or them that will sue for the same: *Provided nevertheless*, that nothing herein contained shall extend or be construed to hinder any person from soliciting or pleading in his own cause, or speaking or pleading in behalf of another, with leave of the court first had and obtained, so that he declare on oath, if required, that he neither has or will accept or take any fee, gratuity or reward, on

No person to
practice with-
out first being
sworn.

Any person
may plead his
own cause.

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account of such his speaking or pleading, or for any other matter relating to the said cause.

No person attending court to be arrested during the sitting of same.

XXX. *And be it further enacted* by the authority aforesaid, That all persons attending the said county and precinct courts, shall be free from arrests during the sitting of the said courts, and also during the time of their coming to and going from the said courts, not exceeding the space of one day before the sitting of the court, and one day after the rising of the same court, unless it be in a criminal matter, breach of the peace, or other misdemeanor.

Debtors not worth forty shillings may swear out.

XXXI. *And whereas*, by reason of the credit usually given in this Province, divers careless persons spend their time in punch-houses, &c., instead of betaking themselves to labor, and also run themselves in debt to country stores much beyond what they are able to pay, and then make their escapes to North Carolina, and other parts of America, for fear of arrests and lying in prison, whereby the persons so trusting are greatly defrauded, idleness greatly encouraged, and the country deprived of the benefit of the labor of such persons, and of their service in the war against the public enemy; to the intent therefore that persons may be more cautious in giving such credit for the future, and to prevent the desertion of such poorer sort of people, which is so great a prejudice to this Province; *Be it therefore enacted* by the authority aforesaid, That where any person shall be in prison on mean process or execution, for any debt above forty shillings sterling, current money, and hath no visible real or personal estate, or yearly salary, or any goods or chattels, to the value of five pounds current money, or be not of any handicraft trade, by the labor of which he may pay his just debts, and shall make oath in open court, before the judges of the said county or precinct courts, or any judges of any other court in this Province, that he is not worth forty shillings sterling, in any worldly substance, either in debts owing to him, or otherwise howsoever, over and besides his wearing apparel; and if there be no person then present that can contradict or gainsay the same, then such person shall immediately be set at liberty, and stand forever discharged of all his debts so sued for, and costs of such suit or suits: But in case such person shall hereafter be discovered to have sworn falsely, he shall be indicted at the respective courts for perjury, and if convicted, shall lose both his ears in the pillory, and serve four years as a soldier, in one of the remote garrisons: *Provided nevertheless*, that nothing in this Act contained shall extend, or be construed to extend, or concern any debt or debts contracted before the ratification of this Act.

Court-houses and prisons to be built.

XXXII. *And be it further enacted* by the authority aforesaid, That the judges and justices hereby appointed, shall, with all convenient speed, assemble and associate themselves together, in order to consult and agree for the purchase of a piece of ground, for erecting and building a convenient brick court-house and brick prison, in the several places hereby appointed, and shall and are hereby impowered to compute the charge thereof, and to levy the same rateably and proportionably on the several inhabitants of their respective counties and precincts, by a proportionable assessment on lands and slaves, according to the precedent year's tax before such assessment, and to issue warrants against defaulters, and have as full and ample power in that behalf for levying thereof, as is given to any commissioners of taxes, by virtue of any Act of Assembly of this Province, giving the inhabitants three months notice of the time and place of paying in the same.

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XXXIII. *And be it further enacted* by the authority aforesaid, That all actions brought for any debts contracted before the ratification of this Act, shall and may be sued for at the general court of pleas in Charlestown, at the election of the plaintiff, so that any persons be not obliged to serve as jurors out of their respective counties and precincts respectively, after the courts have been there respectively held.

Actions for debts contracted before the ratification of this Act to be sued at Charlestown.

XXXIV. And to prevent persons from escaping out of one county or precinct into another, or removing their goods to avoid the payment of their just debts, after judgment had against them, *Be it further enacted* by the authority aforesaid, That all executions on judgments obtained, either in the general court at Charlestown, or in any of the said county or precinct courts, either against the body or the goods, shall run and be directed into all the counties and precincts of this Province, and be returnable into the same court from whence they issued; but that all mean process issuing out of the said general court at Charlestown, or out of any other the said county or precinct courts, shall be directed only to the marshal or sheriff of the said county or precinct respectively, excepting it be for a debt, *bona fide*, of the value of one hundred pounds sterling, which shall be issued out of the said general court at Charlestown, and run into all the said counties and precincts; and except before excepted, for a debt contracted before the ratification of this Act, in which case the process shall run into all the said counties, as heretofore hath been used.

Executions to run into all the counties and precincts of the Province.

XXXV. *And be it further enacted* by the authority aforesaid, That the provost marshal for the time being, shall, from time to time, at the request of the said justices respectively, appoint deputies for executing all process issuing out of the said county and precinct courts, one for each court, who shall be commorant in the prison-house, unless his Excellency the Governor for the time being shall think fit to appoint some other proper officer for that purpose: And the provost marshal shall be answerable for all escapes of prisoners out of the said prison, or out of the hands of his deputies, or other misfeasances and neglect of his said deputies, and shall be subject to such action or actions, penalties and fines; as any sheriff or sub-sheriff in South Britain are subject unto: *Provided nevertheless*, that such suits, penalties and fines, shall be recovered and imposed on the provost marshal at the general court in Charlestown.

Provost marshal to appoint deputies.

XXXVI. *And be it further enacted* by the authority aforesaid, That the justices of the said county and precinct courts, shall be allowed the same fees as are allowed to the chief justice in Charlestown, to be equally divided between all the said justices, for their expenses, and the other officers of the said courts shall be allowed the same fees as the officers of the courts in Charlestown.

Justices fees.

XXXVII. *And be it further enacted* by the authority aforesaid, That the said county and precinct courts hereby erected, and every of them, shall, and are hereby deemed and declared to be, courts of record, and shall and may act and proceed accordingly.

County courts to be courts of record.

XXXVIII. *And be it further enacted* by the authority aforesaid, That all process of subpœna for witnesses, as well in civil as criminal causes, issuing out of the said supreme court in Charlestown, or out of any other the said county and precinct courts, shall run and be issued into all the counties and precincts of this Province, and also all writs of attachment for contempt, and other compulsory process forcing obedience to any interlocutory or final order, judgment, sentence or decree, had and obtained in any of the courts aforesaid.

Process, how to be issued.

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Attested copies of Acts or records, &c. shall be allowed good evidence.

XXXIX. And *whereas*, it may prove inconvenient to have the original records taken out of the respective offices, in order to be produced as evidence at the several courts in this Province, *Be it further enacted* by the authority aforesaid, That an attested copy of any Act or Ordinance of the General Assembly of this Province, signed by the Secretary of this Province, and also attested copies of all records, signed by the keeper of such records respectively, shall be deemed and allowed for as good evidence in the said courts, as the original could or might have been, if produced to the said courts; and also all testimonials, probates, certificates, and other instruments under the great seal of this Province, or any of the other governments in America, bishop of any diocess, lord mayor of London, or mayor or chief magistrate of any town corporate in Great Britain, Ireland, or any of the plantations, or elsewhere, or under the court seal of any court of judicature, or under the sign manual and notarial seal of any notary public of any the places aforesaid, shall be likewise deemed and allowed to be good evidence in any of the courts of judicature in this Province.

JA. MOORE, *Speaker.*

Charlestown, September 20, 1721.

Assented to by

FR. NICHOLSON, *Governor.*

No. 449. AN ACT FOR AUTHORIZING THE GENERAL COURT IN CHARLES CITY AND PORT, TO EXERCISE SEVERAL POWERS AND PRIVILEGES ALLOWED TO THE COUNTY AND PRECINCT COURTS IN THIS PROVINCE; AND SOME OTHER REGULATIONS.

Preamble.

WHEREAS, the supreme and general court held in Charles City and Port, ought to enjoy such powers, authorities and privileges that were granted to the several county precinct courts in this Province, by one Act of the General Assembly, entitled "An Act for establishing county and precinct courts," ratified the twentieth day of September, in the year of our Lord one thousand seven hundred and twenty-one, which having been experienced to be of great advantage and ease of Majesty's subjects of this Province; we pray your most sacred Majesty that it may be enacted,

Matters of discount, between plaintiff and defendant, how to be settled.

I. *And be it enacted*, by his Excellency, Francis Nicholson, Esq. Governor, &c., by and with the advice and consent of his Majesty's honorable council, and the Assembly of this Province, and by the authority of the same, That immediately from and after the ratification of this Act, that the general court to be held in Charles city and port, and the precinct of the same, be empowered to authorize and order, that if the plaintiff who commences an action, be indebted to the defendant on any account whatsoever, the defendant shall be liable, if he see fit, to give the same in evidence, by way of discount, and the same shall be noted and judgment entered up for the balance only; and if the plaintiff be indebted to the defendant more than the defendant is indebted to the plaintiff, judgment shall be entered for the defendant for the overplus, and an execution go against the plaintiff for such overplus, and the verdict shall be special, and

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the judgment entered up specially; *Provided nevertheless*, that the defendant intending to discount any sum or sums of money alledged to be owing him by the plaintiff, do, at least twelve days before the trial, make a copy of such articles and sums which he intends to insist upon at the trial to have discounted, and deliver the same to the plaintiff or his attorney, twelve days before such cause comes to be tried, to the intent the plaintiff may be prepared to disprove the same if he see fit, and the articles of such discount shall be proved to the court by such vouchers and in such manner as the said precinct court law requires in such cases; any law, custom or usage, to the contrary thereof in any wise notwithstanding.

II. *And be it further enacted* by the authority aforesaid, That if any cause be depending in the said general court, or within the jurisdiction of the same, whereof the lands or plantation belonging to the inhabitants or owner thereof shall be brought into dispute, the chief justice and assistant judges of the said court shall appoint surveyors at the nomination of the parties, to survey the same at the charge of the said parties, and to return such survey on oath, at the next sitting of the said court; and in case either of the parties shall refuse to nominate a surveyor duly sworn and qualified, then the said court shall proceed to nominate two or more such surveyors as they shall think fit, in order for the better finding out and discovering the truth of the said matter in difference, and if the court shall acquiesce in the return of the surveyors so given in on oath, as aforesaid, the same shall be allowed as evidence; and in case any action shall be brought for a trespass or waste committed in the plaintiff's land or tenements, the chief justice or assistant judges of the said court shall have power to appoint one or more sufficient persons to view the said trespass or waste, if need be, who shall return an account thereof on oath, at the next court, and the true value of the damages occasioned by such trespass and waste, and the same shall be allowed as evidence, if the court shall see fit; any law, custom or usage to the contrary thereof in any wise notwithstanding.

Lands and plantations in dispute, Surveyors to be appointed.

III. *And be it further enacted*, That the said general court shall be, and is hereby, further empowered to imprison obstinate and incorrigible servants, who shall desert their master's service, or refuse to work, as also, loose, scandalous, idle persons, and appoint their allowance to be bread and water, for which the keeper of the gaol for the time being shall be allowed two shillings and six pence current money per diem, in full of all fees, and no more, and the said court shall have full power to order such bodily correction and punishment to the said loose, disorderly persons and servants, as in their discretions they shall think fit, such punishment not extending to life or limb, any thing to the contrary in any wise notwithstanding.

General court to imprison deserted servants and order punishment.

IV. *And be it further enacted*, That the said general court shall have full power to sue for all legacies, gifts and donations given to free schools and other public uses within the jurisdiction or precinct of the general court of Charles city, and to appoint one or more treasurers for collecting the same, who shall be likewise treasurer for all sums levied in the said precinct, which treasurer shall be accountable to the said court for the same, and all actions or suits for such gifts, legacies and donations, shall be brought in the name of the King, for the uses mentioned in this Act, and for no other whatsoever; any law, custom or usage heretofore to the contrary thereof in any wise notwithstanding.

To sue for legacies and gifts to free schools, in the name of the King.

V. *And be it further enacted* by the authority aforesaid, That the chief justice and assistant judges of the said general court, shall permit any

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Persons may
plead their own
cause.

person, either plaintiff or defendant, who shall have any cause depending in the court, desiring leave of the court to be heard, to plead their own cause, without obliging him or them to fee a council or attorney for that purpose; any rules, orders, customs or usage of the said courts to the contrary thereof in any wise notwithstanding.

In what causes
the judge shall
not allow
above one half
of the fees.

VI. *And be it further enacted*, That in all causes and actions brought, wherein the debt shall not be adjudged to be above twenty pounds current money of this Province, that then the chief justice and assistant judges shall not allow above one half the fees that shall arise upon such action, and they are hereby required to tax the same accordingly; any thing in an Act entitled “An Act for ascertaining public officers fees,” or in any other law, or any usage or custom, to the contrary thereof notwithstanding.

When a writ of
certiorari or
other process
shall issue.

VII. *And be it further enacted* by the authority aforesaid, That no writ of *certiorari*, or other process whatsoever, shall lye or issue forth from the general court of pleas, assize, sessions or general gaol delivery, or any other court to be holden in Charles city and port, for removing any record, process, pleadings or other proceedings whatsoever, out of the said county or precinct courts, or any of them, unless it be for a matter above the value of twenty-five pounds sterling, in causes civil, nor in any matters criminal whatsoever, not extending to life or limb; nor shall the judges of any of the courts of Charles city and port, have power to examine, discuss or determine such civil or criminal proceedings, so as to amend, alter, vacate or otherwise rule, order or adjudge any matter or thing whatsoever, in contradiction thereunto; any law, custom or usage to the contrary thereof in any wise notwithstanding.

Persons indicted
and returned
not guilty, to
be discharged,
paying half
fees.

VIII. *And be it further enacted* by the authority aforesaid, That if any person or persons whatsoever, shall be indicted, presented or prosecuted at the general sessions of the peace, assizes or general gaol delivery, to be held in Charles city and port, or in any other court in this Province, for any criminal matter, and that the grand jury shall return an *ignoramus* upon such indictment, or be found not guilty by the petit jury, that then the person or persons so prosecuted and cleared, shall be discharged from the said Court, paying one half of the fees, as is usual in such cases; any law, usage, practices or customs heretofore practised, to the contrary thereof in any wise notwithstanding; *Provided always*, that nothing in this Act shall be [construed] to extend to infringe on any of the powers and jurisdictions already given to the corporation of Charles city and port.

JA. MOORE, *Speaker.*

Council Chamber, Charles City and Port, February 23, 1722.

Assented to by

FR. NICHOLSON, *Governor.*

No. 466. AN ADDITIONAL ACT TO AN ACT ENTITLED “AN ACT FOR ESTABLISHING COUNTY AND PRECINCT COURTS.”

Preamble.

WHEREAS, by an Act entitled “An Act for establishing county and precinct courts,” it is enacted, among other things, that the presidents of the several courts therein mentioned, with the advice and consent of the

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major part of the other judges, at the time of the sitting of the courts; shall have full power to determine the right of administration of the estates of persons dying intestate; in their several jurisdictions, and also all disputes concerning wills and executorships; to take order concerning all orphan's estates, to call guardians to account, and other persons who have embezzled orphan's estates, and the proceedings therein to be by petition or bill and answer: And *whereas*, it has been thought inconvenient to confine the determination of the said matter to certain days prefixed for holding the said courts, which is but once in three months, and three days allowed only for transacting the same; We therefore pray your most sacred Majesty that it may be enacted,

I. *And be it enacted*, by his Excellency Francis Nicholson, Esquire, Governor, by and with the advice and consent of his Majesty's honorable Council, and the Assembly of this Province, That the said courts of orphans for hearing and determining the matters aforesaid, shall be always open, and shall and may adjourn to any day or place certain, where it shall be most convenient for the coming of the said justices within the said precincts, or till further summons, as they shall see occasion, giving fifteen days notice thereof in writing, by subpoena or summons; exclusive of the day of service, for all parties concerned to attend; and the clerk of the court, at the instance of any two of the justices of the said courts respectively, shall cause the other justices to be summoned for that purpose, by directing a precept to the marshal, or otherwise as he shall see most convenient; and the proceedings of the justices therein shall be of the same force and effect as if done at the days and places prefixed in the said Act for holding the said courts.

The courts of orphans to be always open.

II. *And whereas*, the holding of the county and precinct courts four times a year, hath been deemed too great a fatigue, both to the justices, magistrates and jurors, and the business of the said courts may be dispatched with the same ease and advantage to the clients, with some alterations in the practice of the attorney; *Be it therefore enacted* by the authority aforesaid, That the several county and precinct courts established by the Act before recited, that is to say, the said courts of common pleas and sessions shall from henceforth be holden half-yearly, or twice in the year, viz: The court of Wassamsaw, on every second Tuesday in January and July; the court called Wando precinct, on every second Tuesday in December and June; the court at Echaw in Craven county, on the last Tuesday in December and June; the court at Willtown, in Colleton county, on every last Tuesday in January and July; and the court at Beauford town, in Granville county, on every last Tuesday in February and August.

Courts of common pleas and sessions to be holden twice a year.

III. *And whereas*, heretofore there was but one place throughout the Province, to wit, at Charlestown, now Charles city and port, for holding of all courts, to the great inconvenience of the inhabitants, as in the said recited Act is mentioned: And *whereas*, it is provided by the said Act for establishing county and precinct courts, that all pleas, civil and criminal, happening or arising within the said precincts respectively, shall be decided and determined at the said precinct courts: And *whereas*, by one other clause of the same Act, it is enacted, that the action shall be brought, the *venire* laid, and the cause tried, where the defendant lives, or is arrested; and *whereas*, by reason of the said last mentioned words, (or is arrested,) the said Act hath been evaded, inasmuch as there is but one general market, viz. Charles city and port, where all persons are obliged to attend,

Cause to be tried in the county where the defendant lives at the time of commencing the suit.

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to negotiate their business; *Be it therefore enacted* by the authority aforesaid, That if the defendant's habitation or usual place of abode be in Colleton or Granville county, or within the precincts mentioned in the said recited Act, at the time of commencing the suit for all debts contracted since the ratification of an Act entitled "An Act for establishing county and precinct courts," notwithstanding his being arrested in Charles city and port, the *venire* shall be laid, and the cause tried and determined, at the courts established in Colleton and Granville counties, and the precincts of Wassamsaw, Echaw and Wando respectively, where the defendant lives; or hath been commorant for above one month then last past, and thall not be tried, heard or determined in any of the courts of Charles city, or other place whatsoever, excepting for a sum exceeding one hundred pounds sterling, or in case of appeal, or for a criminal matter extending to life or limb, as in the said recited Act is excepted, or except such person have set up his name to go off this Province; and if the defendant shall be arrested in Charles city and port, the issue, whether of law or fact, shall be fitted up by the plaintiff's or defendant's attorney, and be transmitted, under the seal of the chief justice, to the judges of the county and precinct courts, to be tried in that jurisdiction where the defendant lives, and shall not be tried in Charles city and port.

Method of
practising to
be observed in
the county
courts.

IV. And *whereas*, the appointment of the county and precinct courts to be held half-yearly, will occasion an alteration in the practice settled by the said Act for establishing the said county and precinct courts; *Be it therefore enacted* by the authority aforesaid, That for the court of pleas, the first writ or process shall be by summons or *capias*, to be signed by one of the justices, and signed and sealed by the clerk, which shall contain the substance of the declaration, or have the declaration thereunto annexed, and shall be served on the defendant forty days before the sitting of the then next court, with notice endorsed thereon by the plaintiff, or his attorney, that if the defendant has any defence to make, he do plead in twenty days after service of the said writ or writs and declaration, and that he must file his plea with the clerk of the court, at the next sitting of the court, and in the mean time serve a duplicate or copy of the same on the plaintiff or his attorney, in twenty days exclusive after he receives the writ or writs and declaration, or judgment will be entered up against him, by default, and the justices shall cause judgment to be entered up by default accordingly; and if the plea be special, the plaintiff or his attorney may demur or reply forthwith, and serve the defendant or his attorney with a copy of the same, and notice to join in demurrer, or rejoin or take notice of trial, as the cause may require; and the cause shall be tried or argued of course without further notice, at the then next court whence the action issued, so that such notice of trial or to argue the demurrer, be served on the defendant, or left at his house with some white person, or served on the defendant's attorney at law; and if there be a demurrer for form, to the declaration, plea or replication, or plea in abatement for variance, the plaintiff or defendant shall amend in course, paying forty shillings costs; and if the plaintiff neglect to bring on his cause to trial the first court, the cause shall be tried in course the next following, the defendant or his attorney giving notice thereof to the plaintiff or his attorney, in writing; and if there be a joinder in demurrer for form, and the demurrer be over-ruled, the defendant shall plead *instanter*, and the cause come on to trial the same court; and the said county or precinct courts shall establish such further rules for practice, not repugnant hereto, as may seem reasonable for the better dispatch of business.

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Jurors.

V. *And be it further enacted* by the authority aforesaid, That the same jurors which serve as petit jurors, shall serve as jurors for the common pleas in the said county and precinct courts, and the tales-jurors shall be always taken out of the standers-by; and the judges, coroners, marshals and constables of the county and precinct courts, or any of them, shall not be obliged to attend at the general court of sessions, or any other courts hereafter to be holden in Charles city; any law, usage or custom to the contrary in any wise notwithstanding.

VI. *And be it further enacted* by the authority aforesaid, That the judges or justices for every county or precinct court in this Province, shall have power, and they are hereby impowered, to appoint coroners for each county or precinct court of which they are judges or justices, whose power shall not extend without the limits of their respective jurisdictions; *provided nevertheless*, that every such person so to be appointed coroner for any of the said precinct courts, or county courts, shall first be recommended to the Governor and Council for the time being, in order to have the approbation and commission of the Governor for the time being, to enable such coroner to act in his said office; and the said judges of all and every the said county and precinct courts, shall not put out or displace any coroner, without the consent and approbation of the Governor and Council first obtained; and the coroner of Berkley county, after such coroners are established, shall not act in any place where the others are appointed and have jurisdiction.

VII. *And be it further enacted* by the authority aforesaid, That the justices of the said county and precinct courts, shall have power to appoint constables within the limits of their jurisdictions respectively, either in court or without, as occasion may require, and the same to displace and supercede, and appoint others in their room, as oft as need shall be; and the said justices shall have the same power of fining the said coroners and constables, as also the marshals of the said courts, for breaches or neglects of their duty, as the courts of Westminster, in Great Britain.

VIII. *And whereas*, it may so happen, through sickness or other accident, that there cannot be a quorum of the justices to adjourn the said county or precinct courts; *Be it therefore enacted* by the authority aforesaid, That if any one or two of the said justices waiting till past the hour of twelve, on the first day of each court respectively, and the other justices not being able to come, through sickness or other accident as aforesaid, shall have power to adjourn the said courts to the next day, or to the next time appointed by the Act for holding thereof: and all causes shall be continued of course, from time to time, without entering the continuance thereon, whether the said justices do come or not, unless the plaintiffs or justices of the court shall see cause to discontinue the same, on motion of the plaintiff; and all actions and suits already begun in any of the said county or precinct courts, be, and are hereby declared to be, revived and continued, notwithstanding the failure of the coming of the same justices.

IX. *And whereas*, it may often happen that the attorney general or council for the King cannot attend to prepare or prosecute indictments for criminal offences; *Be it therefore enacted* by the authority aforesaid, That any barrister or attorney at law may prepare and prosecute indictments, by leave and appointment of the justices of the said county and precinct courts, and be allowed the same fees as are appointed for the attorney general.

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*Acts relating to Courts.*Justices im-
powered to
purchase land
for building a
court-house.

X. *And be it further enacted* by the authority aforesaid, The said justices shall have power to purchase lands to them and their successors, fitting and convenient for building a court-house, and inn for entertainment of those who must necessarily attend at the said county and precinct courts, and for pasturage of horses, and to assess and levy the charge of purchasing the said lands, and building a brick court-house and brick or wooden prison, on the lands and negroes lying and being within the jurisdiction of the said county and precinct courts respectively.

And a free
school.

XI. *And be it further enacted* by the authority aforesaid, That the said justices of the county and precinct courts respectively, are hereby fully authorized and impowered to purchase lands for erecting and building one free school, in the most convenient place within their counties and precincts respectively, where they shall agree to, for the education and boarding of youth, and to erect and build a free school thereon, and to levy and assess the charge thereof on the lands and slaves lying and being within the said jurisdiction and precincts respectively, and the justices shall have power to levy the same, by warrants under their hands and seals, against the goods and chattels of defaulters, which warrants shall run and be executed by any person who shall be appointed by the said justices to execute the same, throughout all and every part of this Province, as well for the charge of purchasing of the lands which they shall think necessary for the said court-houses, inns and prisons, as for the said free schools, and for the charge of building such court-houses, prisons and free schools, and to nominate and appoint one or more school-masters for the same free-schools respectively, and the same at pleasure to displace, and appoint others in their stead.

Pay of school
master.

XII. *And whereas*, the stipend already allowed to school-masters is much too small; and to the intent that good and able school-masters may be encouraged to come and settle in the said precincts, *Be it therefore enacted* by the authority aforesaid, That every school-master who shall be qualified according to his Majesty's instructions, and be recommended by the Governor and the majority of the Council then subsisting, and shall be well skilled in the Latin tongue, and shall be approved of by the justices of the county and precinct courts, and shall actually live and reside and teach school within the limit and jurisdiction of the said county and precinct courts respectively, shall receive yearly, from the treasurer of the said counties and precincts respectively, the sum of twenty-five pounds proclamation money, which sum shall be levied by the said justices of the said county and precinct courts respectively, on the lands and slaves within their respective jurisdictions, according to the discretion of the same justices; and the said justices of the county and precinct courts shall have all the same powers as are given to the commissioners of the free school in Charlestown, now Charles city and port, by virtue of an Act entitled "An Act for founding and erecting a free school in Charlestown, for the use of the inhabitants of this Province of South Carolina," ratified the twelfth day of December, one thousand seven hundred and twelve; and the said school master shall teach ten poor children gratis, yearly, if sent by the said justices.

Writs of reple-
vin, &c. shall
be executed
throughout the
whole Pro-
vince, and re-

XIII. *And be it further enacted* by the authority aforesaid, That all writs of replevin for goods distrained or seized unjustly, within the jurisdiction of the said county and precinct courts, and carried out of the same, all writs or actions on bail bonds, and bonds given on writs of replevin, writs of *scire facias*, *capias profine*, and all other process whatso-

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ever, where the cause was originally pending in the said county and precinct courts, shall run and be executed in and throughout all parts of this Province, and be served by the marshals of such county and precinct courts respectively, and be returnable and returned into the said county and precinct courts whence the same issued, and not otherwise; any thing in the Act for establishing county and precinct courts, or any former law, to the contrary thereof in any wise notwithstanding: And the courts of Charles city and port, where the cause was originally pending before them, shall have the same power.

XIV. And *whereas*, the justices of the peace living within the jurisdictions of the several county and precinct courts, are obliged to serve as jurors at such courts, and are fineable for their non-attendance, both as magistrates and jurors; *Be it further enacted* by the authority aforesaid, That the fine of five pounds, imposed on the justices of the peace by the Act for establishing county and precinct courts, for their non-attendance in their capacity as justices of the peace, shall from henceforth cease.

XV. And *be it further enacted* by the authority aforesaid, That the said justices of the said county and precinct courts respectively, or a quorum of them, shall, and are hereby impowered, from time to time, to lay out, alter, repair, amend and keep in repair, all such roads as they shall think proper and convenient to be made, mended and repaired, leading to and from the said county and precinct courts, and every of them, and to appoint such persons's slaves to work thereon, as are living within their respective jurisdictions, when, where and as often as they shall think needful, or to assess and levy all such sums of money on the inhabitants living within their jurisdictions respectively, which they shall agree and pay to any person who shall undertake the doing thereof: And the said justices shall be, and are hereby, invested with all such other powers as are given to the commissioners of high-roads, so far as to enable the said justices to cause the roads leading to the said courts respectively, to be made, mended and repaired.

XVI. And *be it further enacted* by the authority aforesaid, That all the fines and forfeitures accruing and arising by virtue of this Act, and the Act for establishing county and precinct courts, shall be sued for in the name of the King, and be paid into the hands of the treasurers of the said several county and precinct courts, to be disposed of by an order of the several judges or justices, for the use of the said several counties and precincts, and for no other use, intent or purpose whatsoever.

JA. MOORE, *Speaker.**Council Chamber, Charles City and Port, February 23, 1722.*FR. NICHOLSON, *Governor.*

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Acts relating to Courts.

No. 583. AN ACT FOR THE BETTER REGULATING THE COURTS OF JUSTICE IN THIS PROVINCE, AND FOR ALTERING THE TIME OF HOLDING COURTS.

Preamble.

WHEREAS, by the laws and customs of that part of the kingdom of Great Britain heretofore called England, for the better and more effectual dispensing law and justice to all his Majesty's liege people, certain courts of record have been erected and established by the names and titles of the Court of King's Bench, the Court of Common Pleas, and the Court of Exchequer, in which courts, respectively, do preside a chief justice and three puisne judges, and a chief baron and three puisne barons; in which said courts the said puisne judges and barons, respectively, have equal voices, power and authority, in hearing and determining all causes which come before the said courts, respectively, within their respective jurisdictions, with the said chief justices and chief baron: And *whereas*, also, by the laws and customs of divers of his Majesty's plantations in America, there are appointed chief justices and three or more judges in the respective courts erected and established in the said plantations, respectively, for the better and more effectual distribution of justice; and three or more of the said judges or justices may, and often do, hold the said courts, and hear and determine all causes coming before them in the said courts, within their respective jurisdictions, in the absence of the chief justices of the said courts, that no complaints for want of justice may be heard in the said courts: And *whereas*, his Majesty, by his royal commission or letters patent, under the great seal of Great Britain, constituting his Excellency Robert Johnson, Esq. governor, captain-general and commander-in-chief in and over this Province, hath been graciously pleased to authorize and empower his said Excellency to constitute and appoint judges, and in cases requisite, commissions of oyer and terminer, justices of the peace, and other necessary officers and ministers in this Province, for the better administration of justice, and putting the laws in execution: And *whereas*, certain courts of record, of general sessions of the peace, oyer and terminer, assize and general goal delivery for criminal matters, and of common pleas for all civil matters, have been heretofore erected and established in this Province, to be holden before a chief justice, and two or more judges or justices, to sit in judgment, and hear and determine with the chief justice all causes that should come before them in the said courts: And *whereas*, of late, divers disputes have been moved and stirred concerning the powers and authorities of the said judges or justices; for the prevention whereof, for the future, and to the end that justice in the said courts may be the better and more duly administered in this Province, we humbly pray your most sacred Majesty that it may be enacted,

I. *And be it enacted*, by his Excellency Robert Johnson, Esq. Governor, Captain-General and Commander-in-chief in and over his Majesty's Province of South Carolina, by and with the advice and consent of his Majesty's honorable council, and the Commons house of Assembly of this Province, and by the authority of the same, That the judges and justices, and every of them, of the said court of general sessions of the peace, oyer and terminer, assize and general goal delivery, and of the said court of common pleas, in this Province, appointed and to be appointed by his Excellency the Governor of this Province, and the governor for the time being, shall have, and they and every of them are hereby invested with full and ample power, jurisdiction and authority, to sit in and together with the said chief justice of the said courts to hold the said courts respectively, and to sit in

Judges and justices to hold court together.

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judgment in the said courts, and hear, try, determine and give judgment in all causes, civil and criminal, real, personal and mixed, which shall come before, or shall be commenced, sued or prosecuted in, the said courts, respectively, and which shall be within their respective jurisdictions; which said judges or justices, and every of them, in the said courts, respectively, shall have equal voices and power with the said chief justice, in pronouncing and giving judgment in all causes, whatsoever, pending or to be pending in the said courts, and either of them, and to hear and determine all motions and other matters whatsoever, as fully and amply, to all intents and purposes, whatsoever, as the justices or judges, or puisne judges and barons, in his Majesty's Courts of King's bench, Common Pleas, and Exchequer, at Westminster, or any or either of them, have, or ought to have; any law, statute, usage or custom to the contrary notwithstanding.

II. And that there be one settled form for all writs and process, *be it further enacted* by the authority aforesaid, That from and after the ratification of this Act, all writs and process issuing from the said courts, and either of them, shall be returnable before our justices.

III. *And be it further enacted* by the authority aforesaid, That from time to time, and at all times hereafter, when and as often as it shall happen that the chief justice of the said courts, or either of them, shall, through sickness or any other reason, be absent from or not attend the said courts on the days and times appointed or to be appointed for holding the said courts or either of them, or if the said chief justice shall withdraw himself from the said courts or either of them, that then, and in every such case, it shall and may be lawful to and for the said other judges or justices, or any three or more of them, and they are hereby authorized and empowered, to hold the said courts, and to proceed therein in all matters and things whatsoever before the said courts, in their respective jurisdictions, as fully and effectually, to all intents and purposes whatsoever, as if the said chief justice was then actually sitting in the said court; any law, usage or custom to the contrary in any wise notwithstanding.

IV. *And be it further enacted* by the authority aforesaid, That in all actions of debt, actions of detinue, actions of account, actions of covenant, for covenant broken, actions of trover and conversion, and actions upon the case whatsoever, that shall be brought, commenced, sued or prosecuted in the courts of common pleas in this Province, from and after the twenty-fifth day of May, which will be in the year of our Lord one thousand seven hundred and thirty-four, and wherein the debt or damages found by the jury who shall try such actions respectively, does not amount to more than the sum of thirty-five pounds current money of this Province, no more than half the usual costs shall be taxed or allowed to the plaintiff or plaintiffs in such action or actions, nor shall be paid to the judge or judges, attorneys, marshal, clerks, or other officers of the said courts wherein such action or actions shall be tried; any law, statute or usage to the contrary notwithstanding.

V. *And be it further enacted* by the authority aforesaid, That it shall and may be lawful to and for the several factors in this Province, or hereafter to be in this Province, to commence, sue and prosecute any action or suit, in any of the courts of common pleas in this Province, in their own names, for any debt or sum of money due for any wares, goods or merchandise, by them sold for their respective principals.

VI. *Provided always, and be it further enacted* by the authority aforesaid, That all and every such action and actions so sued and prosecuted

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in the name of such factor and factors, shall and may be pleaded in bar of any action or actions, or be given in evidence on the general issue pleaded in any action or actions, brought, sued or prosecuted by the principal of such factor or factors in their own name for the same cause or causes, or for the same goods, wares or merchandize, for which such factor or factors shall sue or prosecute; and that all recoveries in any action or suit by a factor or factors in his or their own name or names, for any debt or dues of his principal or principals, shall be a good and full and perpetual bar and discharge against the principal and principals of such factor and factors, their executors, administrators or assigns; any law, statute or usage to the contrary notwithstanding.

Magistrates, &c. in case they have no returns, excused from attendance on court.

VII. And *whereas*, it is not necessary for the several magistrates and officers of justice to this Province, who have no recognizances or other matter to return to the court of general sessions of the peace, *oyer* and *terminer* and general gaol delivery for this province, to attend the said court; *Be it enacted* by the authority aforesaid, That all and every the justices of the peace, magistrates and constables, who shall, at any time or times hereafter, have no recognizances or other matters to return to the said court, shall, and they are hereby, freed, discharged and exempted of and from all fines and penalties whatsoever, for non-attendance at the said court, and the said courts for the time being; any law, statute or usage to the contrary notwithstanding:—*Provided always*, that nothing herein contained shall be taken or construed to extend to the constables or other officers living and residing within the parish of St. Philip's, Charlestown.

Times of holding courts altered.

VIII. And *whereas*, the time of holding the court of common pleas in this Province on every second Tuesday in August, yearly and every year, is found, by reason of the heat of the summer season, and the attendance required to be given, the crops then on the ground, to be very inconvenient to the judges, practitioners, partys and jurors, who are obliged to attend the said courts; and *whereas*, the altering the time of holding the said court to the second Tuesday in October, will require that the court of common pleas, holden on the second Tuesday in November, be also altered; *Be it therefore enacted* by the authority aforesaid, That the said court of common pleas, appointed to be holden on the second Tuesdays in August and November, shall forever hereafter be holden and kept in Charlestown on the second Tuesdays in October and the second Tuesdays in December, yearly and every year; and that all writs and other process whatsoever, that were or ought to be returnable at the courts of common pleas, usually or heretofore appointed be holden on the said second Tuesdays in August and November, shall be made returnable and be returned on the second Tuesdays in October and December respectively, yearly and every year; and that all matters and things whatsoever, relating to the said August and November courts, and usually transacted therein, shall be had and done, as fully and effectually to all intents and purposes whatsoever, in the said courts on the second Tuesdays in October and December, as if the said courts were kept and holden on the second Tuesdays in August and November; any law, statute, usage or custom to the contrary in any wise notwithstanding.

Evidence in cases of account.

IX. And *whereas*, equal law and justice ought to be distributed to all his Majesty's subjects, *Be it further enacted* by the authority aforesaid, That all planters and other persons in this Province, keeping just and fair accounts, shall, in all actions and suits whatsoever, be admitted and allowed as good evidence to prove their accounts, in such and the same manner as the merchants and shopkeepers in Charlestown are admitted and allowed

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by any law or usage in this Province; any law or custom to the contrary notwithstanding.

X. And *whereas*, by a law of this Province, actions are admitted and allowed to be brought against *feme covertes* that are separate traders, and judgments and executions to be awarded against them for any debt contracted by them as separate traders, as if they were sole, but no provision hath hitherto been made, to enable such separate traders to maintain actions for goods, wares or merchandize, by them sold and delivered to any person or persons whatsoever; *Be it therefore enacted* by the authority aforesaid, That it shall and may be lawful to and for such *feme covertes*, who are or shall be separate traders, to commence, prosecute and carry on in the name of her husband, any action or actions, suit or suits, for the recovery of any debt or debts, due or to grow due, for any goods, wares or merchandize, which she, as a separate trader, shall sell and deliver to any person or persons whatsoever, and shall be admitted as a good and sufficient witness, to prove her books and accounts of the same, to all intents and purposes whatsoever, as if she were sole, or as if the action and actions were so commenced, sued and prosecuted, by any merchant, shopkeeper or other person whatsoever, in his own right.

Feme covertes,
separate tra-
ders.

XI. And *whereas*, by late experience it has been found that great inconveniences, hardships, expenses and delays of justice hath accrued to the prejudice of many of the inhabitants of this Province, by the neglect and for want of the due attendance of such persons as have been duly drawn and summoned to serve as jurymen in the several courts of justice, and that such inconveniences, hardships, expenses and delays of justice are chiefly occasioned by the smallness of the fine appointed and directed by the jury law to be set on such defaulters; *Be it therefore further enacted* by the authority aforesaid, That from and after the ratification of this law, all persons who shall be duly drawn and summoned to serve as jurymen in any of his Majesty's courts of record in this Province, who shall neglect to appear, or refuse to serve as such, in the court to which he shall be so summoned as aforesaid, shall be fined for every such neglect or refusal, any sum not exceeding the sum of three pounds proclamation money, in issues to be levied as aforesaid; unless such person so to be fined will swear that he was not summoned, or unless other reasonable excuses shall be made, and allowed by the chief justice or judges, within forty days after such default; any law of this Province to the contrary notwithstanding.

Fine on jurors
for non-attend-
ance.

XII. And *whereas*, by several Acts and Statutes of Great Britain, it is ordained and enacted, that all sheriffs shall have sufficient lands and tenements in their respective countys where they are appointed sheriffs, to answer to the King and all his liege people for all his proceedings, actings and doings, and especially for all such levys as he shall from time to time make or cause to be made, on the goods, chattels, lands or tenements of any person or persons within such county, either for his Majesty's use or for the use of any of his liege people; and *whereas*, many abuses, inconveniences, frauds and great losses have accrued, and may frequently happen, to his Majesty and his people of this Province, for want of good and sufficient security to be given by the provost marshal of this Province for the time being, to answer the same; for the prevention whereof, *Be it further enacted* by the authority aforesaid, That from and after the ratification of this law, the provost marshal for the time being, and all succeeding provost marshals, shall, so soon as a public gaol shall be built, give good and sufficient security, by entering into bond with two or more persons of known abilities, jointly

Provost mar-
shal to give
security.

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and severally, in the penal sum of one thousand pounds sterling, to answer to the King and all his liege people, for all his proceedings, actions and doings, as is before mentioned; and that from and after the ratification of this law, and the building a public gaol as aforesaid, the provost marshal for the time being, and his successors, successively, shall enter into such bond, with two or more sufficient surities, jointly and severally, for the due and true performance and execution of his office; and if he or they shall presume to do any thing in execution of the said office, or serve any writ, process or execution, after the building the public gaol as aforesaid, before he or they have entered into such bond, he or they shall forfeit, for every such writ, process or execution by him served and executed, the sum of one hundred pounds proclamation money; one moiety to the King, and the other to him that is agrieved or will sue for the same. And in the mean time, and until such public gaol shall be built, the said provost marshal shall enter into bond as aforesaid, to answer to our Sovereign Lord the King, and all his liege people, for all moneys, fines and amerciements whatsoever, that shall come to his hands, or be levied by him, for the use of our Sovereign Lord the King, or his people respectively. And in case any person or persons whatsoever, shall be agrieved or suffer any damage by the non-performance or misperformance of the provost marshal in the execution of his office, either by misapplying, embezzeling or detaining in his hands, any money, goods or chattels by him levied, or by not restoring to the owner the overplus, if any there be, (the costs and charges for distraining and levying being first deducted,) that then and in such case, it shall and may be lawful for any person or persons by him agrieved in manner as aforesaid, to sue the provost marshal and his sureties, jointly or severally, for all such their damages by him so caused and sustained; to be recovered by action of debt, bill, plaint or information in any of his Majesty's courts of record, wherein no essoign, wager of law, or more than one imparlance, shall be allowed; any law, custom or usage to the contrary notwithstanding.

Demurrer.

XIII. *And be it further enacted* by the authority aforesaid, That in all demurrers to be filed in any court of record in this Province after the twenty-fifth day of May next, the several causes of demurrer shall be set forth in such demurrer, whether the same be for form or substance; and that no other cause of demurrer than such as shall be so set forth, shall at the time of the arguing or trying such demurrer, be heard, admitted or allowed of; any law, usage or custom to the contrary notwithstanding.

Costs, how to be taxed.

XIV. *And be it further enacted* by the authority aforesaid, That the several judges and justices of the several courts of record in this Province, and every of them, shall have power, and they are hereby authorized and empowered, (in case the chief justice shall neglect or refuse to tax costs or sign execution in any cause wherein order for judgment shall be made,) to tax costs and sign execution, in as full and beneficial a manner as the said chief justice may or can do.

Injunctions.

XV. *And forasmuch*, as by the course of proceeding in the court of chancery now established by a law of this Province, no injunction can issue out of the said court to stop proceedings at common law, unless the sum or damages sued for at law be first deposited in the hands of the master or register in chancery, which is found of great impediment to that equitable relief which might otherwise be applied for and obtained in a court of equity; *Be it therefore enacted* by the authority aforesaid, That from and after the ratification of this Act, any person or persons who is or are defendant or defendants at common law, upon filing a bill for relief in equity,

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may, and is hereby entitled to, obtain an injunction, on the equity suggested in the said bill, to stop proceedings at law, upon his or their giving security to the register or master in chancery, to stand to, abide and perform the decree or order of the said court; which security shall be only equal to the amount of the damages or sum laid in the declaration at law; any law or usage heretofore to the contrary notwithstanding.

XVI. *And be it further enacted* by the authority aforesaid, That this Act, and every article, matter and thing therein contained, shall be and remain in force for and during the space of five years from and after the ratification of this Act, and from thence to the end of the next session of the General Assembly, and no longer.

PAUL JENYS, *Speaker.**In the Council Chamber, the 9th of April, 1734.**Assented to:*

ROBT. JOHNSON.

AN ACT FOR THE BETTER REGULATING THE COURT OF COMMON No. 622.

PLEAS, TO BE HOLDEN ON EVERY SECOND TUESDAY IN FEBRUARY, MAY, AUGUST, AND NOVEMBER, YEARLY AND EVERY YEAR, BEING THE ANCIENT TIMES HERETOFORE APPOINTED FOR HOLDING THE SAID COURT.

WHEREAS, by reason of his Majesty's repealing of a certain Act of the General Assembly of this Province, entitled "An Act for the better regulating the courts of justice in this Province, and for altering the time of holding courts," the courts of common pleas which were appointed to be holden on the second Tuesdays in October and December last, could not be holden or kept; *and whereas*, the court of common pleas in the said Province was heretofore, that is to say, before the passing the said Act, usually holden on the second Tuesdays in February, May, August and November, yearly and every year, for the hearing, trying and determining therein all common pleas; for the bringing back, therefore, the holding of the said court to the said ancient times of holding the same, and for establishing and confirming the same, for the better and more effectual administration of justice in this your Majesty's Province of South Carolina, we humbly pray your most sacred Majesty that it may be enacted,

Preamble.

I. *And be it enacted*, by the Honorable Thomas Broughton, Esq., his Majesty's Lieutenant Governor and Commander-in-chief in and over his Majesty's Province of South Carolina, by and with the advice and consent of his Majesty's honorable Council, and the Commons House of Assembly of this Province, and by the authority of the same, That the court of common pleas, for hearing, trying, and determining all common pleas happening and arising within the jurisdiction of the said court, shall forever hereafter be holden before the justices of the said court at Charlestown, in the Province aforesaid, at four terms in the year, which said terms shall respectively begin on every second Tuesday in February, May, August and November, yearly and every year; and the said court so holden and to be holden as aforesaid, is hereby appointed to be holden at Charlestown aforesaid, at the terms aforesaid; any other term or appointment for holding the said courts, or any law, statute or usage, to the contrary thereof in any wise notwithstanding.

Court of C. P.
when to be held.

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Powers of said court.

II. *And be it further enacted* by the authority aforesaid, That the said court of common pleas, and the justices thereof, shall, and lawfully may, have, hold, use and exercise all and singular the powers, jurisdictions and authorities in all civil causes within this Province, in as full and ample manner, to all intents and purposes whatsoever, as the court of common pleas at Westminster, and the justices thereof, do, can or lawfully may there have, hold, use, exercise and enjoy.

Declaration, when to be filed.

III. *And whereas*, contrary to the established rules of practice of the court of common pleas in the Kingdom of Great Britain, and other his Majesty's dominions, declarations have been filed in the court of common pleas here against his Majesty's subjects residing within this Province, before the days on which the said writs or processes against them were made returnable; *Be it therefore enacted* by the authority aforesaid, That from and after the tenth day of May next, no bill or declaration shall be filed or received in the said court of common pleas, or any other common law court of record within this Province, until the day the writ or process whereon the same is grounded, shall be made returnable.

Writs, when returnable.

IV. *And, as far as may be*, to prevent any delay of justice to the suitors by altering the practice of the said court of common pleas here in manner as aforesaid, *Be it further enacted* by the authority aforesaid, That all writs or mean processes that shall be issued by or from the said court, shall be made returnable before the justices of the said court on the first Tuesday in January, April, July and October.

How to be served.

V. *And be it enacted* by the authority aforesaid, That a true copy of all writs or mean process hereafter to be issued by or from the said court of common pleas here, shall be delivered to or left at the usual place of abode of, the defendant or defendants, with some white person, if there be any such person to be found at the defendant or defendants place of abode, or otherwise to be left at some obvious part of the house, by the provost marshal or his deputy, at the time of the service of such writ or mean process; and upon every copy of such writ or process, there shall be written a notice, in words at length, and a fair and legible hand or character, to the following effect: "A B, you are arrested by virtue of, or served with this writ or process, to the intent that you may, by your attorney, appear at his Majesty's court of common pleas, in Charlestown, at the return thereof, being the ——— day of ———, in order to make your defence in this action; and that in case of your refusal or neglect, ten days after the return of this process, judgment may be entered against you by default."

Courts, how to be holden and adjourned.

VI. *And for the preventing of unnecessary adjournments, and long, tedious, and expensive attendances of suitors, jurors and other persons, on the said court; Be it further enacted* by the authority aforesaid, That all courts of common pleas hereafter to be holden in the said Province, shall be kept open from the first day of each respective court on which the *venire facias* for summoning juries shall be made returnable, and the justices of the said court shall sit from day to day, until all the issues and inquests, or other matters of fact which the respective juries drawn, or hereafter to be drawn, impannelled, summoned and sworn to try or find, shall be tried, found or dispatched; and that when such business shall be so dispatched, and the respective juries discharged by the said court, and not till then, it shall and may be lawful to adjourn the said court, to or for any reasonable space of time not exceeding twenty days, nor less than ten days; and at the day of such adjournment, the said justices shall meet and attend the said court, and there sit, from day to day, for the hearing

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and determining matters of law, and for the dispatch of such other business as hath been usually transacted or brought before them at such adjourned courts; but nevertheless, not to continue such their sittings at adjourned courts for above the space of six days; and at the end or expiration of the said six days, or other sitting of the said court, the justices of the said court are hereby empowered and required to adjourn the said court to the first Tuesday in January, April, July and October, respectively, and then to meet and sit, to receive the returns of writs and process issuing from the said court; and the provost marshal, and all other persons empowered to execute writs or processes issuing out of the said court, are hereby required to make due and true returns of all writs and processes to him and them directed and delivered, to the justices of the said court of common pleas here, at such their respective times of meeting last mentioned; any law, usage or custom, to the contrary thereof in any wise notwithstanding: *Provided nevertheless*, that this Act, nor any thing herein contained, shall extend or be construed to give any power or authority to the said court, to execute or put in force any statute of England or Great Britain, wherein the plantations in America are not particularly and specially named, or which do not, by the intent or purview of such statute, extend to the said plantations, or which is not extended or made of force here by the laws of this Province, or shall be hereafter so extended and made of force.

VII. *And be it further enacted* by the authority aforesaid, That this Act, and every thing herein contained, shall be deemed, held and taken to be a public Act, in all courts of record, and by all persons in this Province, without specially pleading the same.

C. PINCKNEY, *Speaker.*

In the Council Chamber, the 5th day of March, 1736-7.

Assented to: THOS. BROUGHTON,

AN ACT TO IMPOWER HIS EXCELLENCY THE GOVERNOR, OR THE COMMANDER-IN-CHIEF OF THIS PROVINCE FOR THE TIME BEING, AND A MAJORITY OF THE MEMBERS OF HIS MAJESTY'S HONORABLE COUNCIL WHO SHALL BE IN THIS PROVINCE, TO HOLD A COURT OF CHANCERY; FOR REPEALING THE FIRST AND NINTH PARAGRAPHS OF AN ACT OF THE GENERAL ASSEMBLY OF THIS PROVINCE, ENTITLED "AN ACT FOR ESTABLISHING A COURT OF CHANCERY IN THIS HIS MAJESTY'S PROVINCE OF SOUTH CAROLINA;" AND FOR PREVENTING THE DISCONTINUANCE OF PROCESS, AND THE ABATEMENT OF SUITS IN THE COURTS OF JUSTICE. No. 745.

WHEREAS, by an Act of the General Assembly of this Province, passed the ninth day of September, one thousand seven hundred and twenty-one, entitled "An Act for establishing a court of Chancery in this his Majesty's Province of South Carolina," his Majesty's Governor of this

Preamble.

A. D. 1746.

Acts relating to Courts.

Province for the time being, and the majority of the honorable the members of his Majesty's Council, from time to time subsisting, are authorized and impowered, at all times thereafter, to hold a Court of Chancery, and to exercise the power, jurisdiction and authority of the same: And *whereas*, several of the honorable members of his Majesty's said Council are frequently obliged to be absent from this Province on their own lawful and necessary occasions, whereby, and by other concurring causes, it frequently happens that a majority of the Council subsisting cannot be assembled together in order to constitute a Court of Chancery; We therefore pray your most sacred Majesty that it may be enacted,

The Governor
and Council to
hold a Court of
Chancery.

I. *And be it enacted*, by his Excellency James Glen, Esquire, Captain-general, Governor and Commander-in-chief in and over his Majesty's Province of South Carolina, by and with the advice and consent of his Majesty's honorable Council, and the Assembly of the said Province, and by the authority of the same, That from and immediately after the passing of this Act, his Majesty's Governor of this Province for the time being, and the majority of the honorable the members of his Majesty's Council for the time being, who are or shall be actually resident in this Province, are hereby authorized and impowered, at all times hereafter, to hold a court of chancery, and shall have, exercise and use the same jurisdiction, power and authority in granting and issuing forth all original and remedial writs and other process whatsoever, and in hearing, adjudging and determining all causes and suits in equity, in as full and ample manner as any chancellor or court or courts of chancery in America can, or may, or ought to do.

II. *And be it further enacted* by the authority aforesaid, That the master of the said court for the time being, shall have power to hear all motions of course, and make orders thereon.

III. *And be it further enacted* by the authority aforesaid, That the first and ninth paragraphs of the before mentioned Act of the General Assembly shall be, and are hereby declared, repealed and null and void, to all intents and purposes whatsoever.

IV. *And whereas*, the present chief justice departed out of the limits of this Province before Monday the tenth day of November now last past, being Monday next before the second Tuesday in November last, to which day the court of general sessions of the peace, oyer and terminer, assize and general gaol delivery, holden at Charlestown on the third Wednesday of October last was adjourned; *and whereas*, a sufficient number of the assistant judges did not meet on the said tenth day of November to hold the said court, according to the adjournment thereof aforesaid; *Be it therefore hereby further enacted* by the authority aforesaid, That no process or proceedings whatsoever, that was or were depending at the aforesaid court, holden at Charlestown on the third Wednesday in October last, or at any of the adjournments of the said court, shall be discontinued, put without day, or made void, by reason of the not holding the said court, according to the aforesaid adjournment thereof, on the said tenth day of November last; but that all such process and proceedings as were then depending at the said court, shall, by force and virtue of this Act, be adjourned and continued to the next court of general sessions of the peace, oyer and terminer, assize and general goal delivery, appointed by this Act to be holden on the third Wednesday in March next ensuing, and shall then and there be proceeded on, heard and tried, in as full and ample a manner as

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if the said court had been duly holden in the usual course, according to the adjournment thereof aforesaid; any law, usage or custom, to the contrary thereof in any wise notwithstanding.

V. And *whereas*, by the laws now in being, a majority of the assistant judges, in the absence of the chief justice, are required to be present in the courts of common pleas and general sessions of the peace, oyer and terminer, assize and general goal delivery, to adjourn the same; in order, therefore, to prevent a discontinuance of the said courts, for want of such a majority at any time hereafter, *Be it enacted* by the authority aforesaid, That at all times hereafter, it shall and may be lawful for any one of the assistant judges, in the absence of the chief justice, to adjourn the said courts of common pleas and of general sessions of the peace, oyer and terminer, assize and general goal delivery; any law, custom or usage, in any wise to the contrary notwithstanding.

Court of C. P.
how to be
adjourned.

VI. And *whereas*, the frequent abatements of suits at law, by reason of the death of parties, is very inconvenient and detrimental to the suitors, *Be it further enacted* by the authority aforesaid, That in all actions to be commenced in any court of record in this Province, after the passing of this Act, if any plaintiff happen to die after an interlocutory judgment, and before a final judgment obtained therein, the said action shall not abate by reason thereof, if such action might be originally prosecuted by the executors or administrators of such plaintiff; and if the defendant die after such interlocutory judgment, and before final judgment therein obtained, the said action shall not abate, if such action might be originally prosecuted or maintained against the executors or administrators of such defendant; and the plaintiff, or if he be dead, after such interlocutory judgment, his executors or administrators, shall and may have a *scire facias* against the defendant, if living, after such interlocutory judgment, or if he died after, then against his executors or administrators, to shew cause why damages in such action should not be assessed and recovered by him or them; and if such defendant, his executors or administrators, shall appear at the return of such writ, and not shew or alledge any matter sufficient to arrest the final judgment, or being returned warned, or upon two writs of *scire facias*, it be returned that the defendant, his executors or administrators, had nothing whereby to be summoned, or could not be found in the Province, shall make default, that thereupon a writ of enquiry of damages shall be awarded, which being executed, judgment final shall be given for the plaintiff, his executors or administrators, prosecuting such writ or writs of *scire facias*, against such defendant, his executors or administrators respectively.

Suits not to
abate by death
of parties.

VII. And *be it further enacted* by the authority aforesaid, That if there be two or more plaintiffs or defendants, and one or more of them shall die, if the cause of such action shall survive to the surviving plaintiff or plaintiffs, or against such surviving defendant or defendants, the writ or action shall not be thereby abated, but such death being suggested upon the record, the action shall proceed at the suit of the surviving plaintiff or plaintiffs against the surviving defendant or defendants.

When suit may
survive.

HENRY MIDDLETON, *Speaker.*

In the Council Chamber, the 17th day of February, 1746.

Assented to: JAMES GLEN.

A. D. 1767.

Acts relating to Courts.

No. 958. AN ACT FOR THE MORE FREQUENT HOLDING OF THE COURT OF GENERAL SESSIONS OF THE PEACE, OYER AND TERMINER, ASSIZE AND GENERAL GOAL DELIVERY; AND TO APPOINT AND ESTABLISH A NEW LIST OF JURY-MEN; AND TO AUTHORIZE AND EMPOWER THE ASSISTANT JUDGES TO TAKE RENUNCIATIONS OF DOWER FROM FEME COVERTS.

Preamble.

WHEREAS, the business of the Court of General Sessions of the Peace, Oyer and Terminer, Assize and General Goal Delivery, has of late years very much increased, and it is extremely grievous to the unhappy persons who are obliged to lie in goal in order to take their trial, that the said court by law is limited and appointed to be holden but twice in one year, by means whereof prisoners under criminal prosecutions are not only subjected to very long and painful confinement, but are also very often enabled to elude the just punishment due to their crime, by contriving and forming schemes to break goal and make their escape; and moreover, a very heavy annual debt is brought upon the public of this Province, for keeping, maintaining and providing for them so long a time before they are brought to trial; for remedy whereof, by appointing the court of general sessions to be more frequently held, We humbly pray your most sacred Majesty that it may be enacted,

Court of C. P.
to sit three
times a year.

I. *And be it enacted*, by his Excellency the Right Honorable Lord Charles Greville Montagu, Governor-in-chief and Captain-general in and over his Majesty's Province of South Carolina, by and with the advice and consent of his Majesty's Council, and the Commons House of Assembly of the said Province, and by the authority of the same, That from and immediately after the passing of this Act, instead of the times heretofore appointed for the holding the said court of general sessions, (to wit, the third Wednesday in March, and the third Wednesday in October,) the said court of general sessions of the peace, oyer and terminer, assize and general goal delivery, shall always hereafter be holden and set three times in every twelve months, (that is to say,) on the third Monday in October, on the third Monday in January, and on the third Monday in April, and shall adjourn *de die in diem*, until all trials and other business that is to be dispatched and transacted by juries shall be finished, and then the said court may adjourn to any further days or times for giving judgment, awarding, executing or doing any other lawful and necessary business belonging to the said court, about which the attendance of juries is not required by law; any law, statute, usage or custom, to the contrary thereof notwithstanding.

Writs, process,
&c. made of
force.

II. *And be it further enacted* by the authority aforesaid, That all process, warrants, orders, recognizances, and other matters and things now depending in the court of general sessions, and all proceedings thereupon had, which before the passing of this Act stood adjourned over, continued, or were returnable at the court of general sessions heretofore appointed to be holden on the third Wednesday in October next, shall be continued, proceeded upon, heard, tried, judged and determined at the next court of general sessions hereby appointed to be held the third Monday in October next; and the said court is hereby authorized and empowered to proceed thereupon, and to make such orders relating thereto, as the said court might or could do, if it was to be held the said third Wednesday in October next, and this Act had never been passed; any law, usage or custom, to the contrary thereof in any wise notwithstanding.

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III. And *whereas*, by altering the days and times for holding the said court of general sessions, it is become necessary also to alter the days and times for drawing the juries who are to serve at the said court, and to appoint and direct other days for doing the same; *Be it therefore enacted* by the authority aforesaid, That the jury to be drawn to serve at the first court of general sessions of the peace, oyer and terminer, assize and general goal delivery, to be held in pursuance of this Act, the third Monday in October next, shall be drawn at the usual place of judicature in Charlestown, on the second Tuesday in May next before the sitting of the court of common pleas; and that always thereafter, the jury to be drawn to serve at every succeeding court of general sessions, shall be drawn on the first day of every preceding sessions, and before the opening and sitting of the court; (that is to say,) the jury to be drawn to serve at the court of general sessions to be held on the third Monday of January, shall be drawn the first day of the sessions to be held in October preceding; the jury to be drawn to serve at the court of general sessions to be held the third Monday in April, shall be drawn the first day of the sessions to be held in January preceding; and the jury to be drawn to serve at the court of general sessions to be held the third Monday in October, shall be drawn the first day of the sessions to be held in April preceding; and so continue to be done successively, in the same order and method; and public notice when the said jury is to be drawn shall be given by the beat of drum, in the four most public streets in Charlestown, on the same day the said jury is to be drawn as by law directed and required.

Juries, when to be drawn.

IV. And *whereas*, no lists of jury-men to serve as jurors at the several courts of record by law established in this Province, have been appointed since the twenty-first day of May, one thousand seven hundred and fifty-seven, whereby the numbers now remaining on the jury lists are become too small for the public service; *Be it therefore enacted* by the authority aforesaid, That the several persons whose names are in the several lists or schedules hereunto annexed, (and no other person or persons whatsoever,) shall be drawn by ballot, impanelled, summoned, and obliged to serve as jury-men, at the several courts of record by law established in this Province, and in such manner and form as by the laws and customs of this Province is used, directed and prescribed; (that is to say,) that the several persons whose names are inserted in the first schedule or list hereunto annexed, entitled a list of grand jury-men, shall be drawn by ballot, impanelled, summoned, and obliged to serve on all grand juries at the court of general sessions of the peace, oyer and terminer, assize and general goal delivery, to be holden in Charlestown; and the several persons whose names are inserted in the second schedule or list hereunto annexed, entitled a list of petit jury-men, shall be drawn by ballot, impanelled, summoned, and obliged to serve on all juries and inquests whatsoever, at any of the courts of record that shall at any time hereafter be holden in Charlestown, in this Province; and the several persons whose names are inserted in the third schedule or list hereunto annexed, entitled a list of special jury-men, being inhabitants of the parishes of St. Philip and St. Michael, Charlestown, shall be drawn by ballot, impanelled, summoned, and obliged to serve on all juries and inquests at courts of the general sessions of the peace, oyer and terminer, assize and general goal delivery, and courts of common pleas, and all forcible entrys, and at all special courts for transient persons, and at no other courts whatever, hereafter to be holden in this Province; any law, usage or custom, to the contrary thereof in any wise notwithstanding.

New jury lists established.

A. D. 1767.

Acts relating to Courts.

Ballots and
boxes, how to
be prepared.

V. *And be it further enacted* by the authority aforesaid, That the chief justice, or any one of the assistant judges or justices, public treasurer and coroner of Berkley county, shall, within ten days next after the passing of this Act, take out of the jury box, and burn or otherwise destroy, the pieces of parchment or paper whereon the names of the persons formerly appointed by law to serve as jury-men are written, and shall, within the time aforesaid, cause to be written on other small pieces of parchment or paper, of an equal size and bigness, the names of all the persons hereby appointed to serve as jury-men with the parish in which each person doth live and reside; and having first diligently compared them with the list or schedule hereunto annexed, shall cause them to be put in the same or some other box or chest, to be prepared for that purpose, with six divisions made therein, and the number of each division marked upon the cover of the same, observing the method following, (that is to say,) the names of all the persons mentioned in the schedule or list hereunto annexed, entitled a list of grand jury-men, shall be put into the division of the said box numbered one; and the names of all the persons mentioned in the schedule or list hereunto annexed, entitled a list of petit jury-men, shall be put into the division of the said box numbered three; and the names of all the persons mentioned in the schedule or list hereunto annexed, entitled a list of special jury-men, shall be put into the division of the said box numbered five.

Jurors to be
drawn accord-
ing to the Act
of 1731.

VI. *And be it further enacted* by the authority aforesaid, That the persons hereby appointed to serve on juries, shall be drawn according to the method prescribed by an Act of the General Assembly of this Province, passed the twentieth day of August, in the year of our Lord one thousand seven hundred and thirty-one, entitled "An Act confirming and establishing the ancient and approved method of drawing juries by ballot in this Province; and for the administration of justice in criminal causes; and for appointing of special courts for the trial of causes of transient persons; declaring the power of the provost marshal; for allowing the proof of deeds beyond the seas as evidence; and for repealing the several Acts of the General Assembly therein mentioned;" and shall be subject and liable to all the duties, pains, and penalties which are enjoined and inflicted by the laws of this Province on jury-men; *provided always*, that nothing in this Act contained shall be construed, deemed or taken to oblige any person or persons who heretofore have been, now are, or hereafter shall be, members of his Majesty's honorable Council, judges or assistant judges in any of the courts of this Province, or members of the Assembly, and officers of any of the courts of justice, during the time they shall be members, and during their continuance in such offices, or any person or persons exempted by the laws and statutes of Great Britain, or by any law of this Province, to serve as jury-men, or to debar or preclude any person or persons from challenging or excepting against any juror or jurors, where, by the laws of Great Britain, he or they might have been admitted so to do; challenges to the array, in respect of partiality, affinity or consanguinity of the provost marshal, excepted.

Who exempt-
ed.

Dower and in-
heritance may
be renounced
before assistant
judges as be-
fore the chief
justice.

VII. *And whereas*, in and by an Act of the General Assembly, passed the twentieth day of August, one thousand seven hundred and thirty-one, commonly called the Quit Rent Law, it is, amongst other things, enacted and declared, that the usual method and practice now observed for the barring of any *feme covert* of her estate or inheritance, or of her dower and thirds, by joining freely and voluntarily with her husband in any conveyance

Acts relating to Courts.

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for the purposes in the said Act mentioned, and acknowledging the same before the chief justice for the time being, or before any persons by him thereunto authorized, and certified by the said chief justice, and recorded in the office of pleas, shall be deemed as effectual and valid in the law, to all intents and purposes whatsoever, as any fine passed in due form of law in his Majesty's courts of pleas at Westminster, for conveying of land in Great Britain; *and whereas*, through the absence, sickness or death of the chief justice, or some other cause, it may prove very detrimental and injurious to the estates and properties of his Majesty's subjects in this Province, to confine and limit the taking of renunciations of dower and releases of inheritance from *feme covert*s wholly to the chief justice, or those whom he shall see fit to appoint, and the good purposes and intention of the said Act would be more fully and effectually answered if some other certain persons also were appointed and authorized by law to carry the same into execution; *Be it therefore enacted* by the authority aforesaid, That from and immediately after the passing of this Act, the assistant judges or justices of the court of common pleas for the time being, or any one of them, shall have the same right, power and authority for putting or carrying into execution the several matters contained in the before recited Act, relative to the barring of any *feme covert* of her estate or inheritance, or of her dower and thirds, as is therein and thereby given to the chief justice for the time being; and all deeds, conveyances and releases duly executed agreeable to the directions of the said Act, and acknowledged before any one of the said assistant judges, and certified under his hand and seal, and recorded in the office of pleas, shall be as good and effectual in law, to all intents and purposes whatsoever, for the barring of any *feme covert* of her estate or inheritance, or of her dower and thirds, as the same would or could be if done personally before the chief justice; any thing in the said Act, or any other Act, contained, to the contrary notwithstanding.

P. MANIGAULT, *Speaker*.*In the Council Chamber, the 18th day of April, 1767.*

Assented to: C. G. MONTAGU.

[Lists of names omitted.]

AN ACT FOR ESTABLISHING COURTS, BUILDING GAOLS, AND APPOINTING
SHERIFFS AND OTHER OFFICERS, FOR THE MORE CONVENIENT ADMINISTRATION OF JUSTICE IN THIS PROVINCE. No. 980.

WHEREAS, the establishing courts, building gaols, and appointing sheriffs, in different parts of this Province, under proper regulations, will tend to promote the interest of our most gracious Sovereign and his good subjects therein, also to preserve their just rights, liberties and properties, and the public peace, inasmuch as the distance from Charlestown of many persons who, however remote from thence, are often obliged, either as parties, jurors or witnesses, to attend the courts at present held there for trial of all criminal causes, and of all civil actions exceeding the value of twenty pounds current money, and the delay of suits, by reason of such

Preamble.

A. D. 1768.

Acts relating to Courts.

distance, are very great, the charge and inconvenience of such attendance, burthensome and detrimental, the business of the provost marshal too much to be duly executed, his fees, by reason of the extent of that office throughout the whole Province, often more than half the amount of debts sued for, and the expense of recovering small debts, frequently far beyond the amount of such debts, to the great discouragement of plaintiffs and prosecutors, and the grievance of defendants; which hardships deter numbers of people from becoming inhabitants of this Province, who, if justice could be obtained with greater ease and expedition and less expense (than at present,) would be thereby induced to settle and improve many large and valuable tracts of land which now lay uncultivated, and would not only contribute largely to the revenue of the crown and support of government, but also greatly increase the trade of Great Britain and of this Province: and *whereas*, it would also tend to the ease and advantage of the inhabitants of the Province, if commissioners were appointed in the country, for taking affidavits and recognizances of bail in actions depending in the courts of law; and causes of weight and importance may in some cases be much better tried and decided by special juries than by jurors drawn as at present; and defendants may be often harrassed by being obliged, as they now are, to give bail whenever personally arrested, though there be really little or nothing due to the plaintiffs in the actions, and the same may be groundless; to attain, therefore, the salutary ends, and remove the inconveniences, aforesaid, we humbly pray his most sacred Majesty that it may be enacted,

I. *And be it enacted* by his Excellency the Right Honorable Lord Charles Greville Montagu, Captain-General, Governor and Commander-in-chief in and over his Majesty's said Province, by and with the advice and consent of his Majesty's Council and the Commons House of Assembly of the said Province, and by the authority of the same, That the courts of Common Pleas in Charlestown shall be holden at the times already established by law, except only that the court of Common Pleas, which has heretofore been held on every second Tuesday in November, shall, for the future, begin to be holden on every second Tuesday in October, and all writs and process issuing out of the said court, shall, for the future, be made returnable on every third Tuesday in September; and that the courts of General Sessions of the Peace, Oyer and Terminer, Assize and General Gaol Delivery, in Charlestown, instead of being held at the times now prescribed by law, shall, for the future, begin to be holden on every third Tuesday in February, May and October; any law, usage or custom to the contrary thereof notwithstanding: and that the judges of the said courts, in the several circuits hereinafter appointed, shall hold pleas of all causes, civil and criminal, arising within the limits hereinafter expressed, in the same manner, as near as may be, as the justices of assize and *nisi prius* do in Great Britain; (that is to say,) at Orangeburgh and at Camden, lately called Pine Tree Hill, on every fifth day of April and November; at Ninety-Six and at the Cheraws, on every fifteenth day of April and November; at Georgetown on every twenty-sixth, and at the town of Beaufort on every thirtieth day of April and November; *provided*, that if any of the days above appointed for holding the said courts shall happen to be on Sunday, the said courts shall begin on the day following; and that each of the said courts shall sit from day to day, not exceeding six days, until the business thereof shall be dispatched, if all the business can be determined in that time, but if not, then what shall remain unfinished shall be continued or adjourned over to the next court.

Courts, when
to be held.

Acts relating to Courts.

A. D. 1766.

Judicial districts established.

II. *And be it further enacted* by the authority aforesaid, That the said courts of General Sessions of the Peace, Oyer and Terminer, Assize and General Goal Delivery, shall have cognizance and jurisdiction of all pleas criminal, and the said circuit courts of all civil pleas or actions, in those of the following precincts wherein the defendants shall reside, be arrested or taken by process or warrant, and the same shall be heard, tried and determined at the said courts, respectively; (that is to say,) the said courts at Charlestown, of all such pleas or suits, civil and criminal, in which the defendants shall reside or be arrested or taken in Charleston precinct, which precinct shall include all places between the north branch of Santee river and Combahee river and the sea, including the islands by a line drawn from Nelson's ferry directly towards Mathew's bluff, on Savannah river, until it intersects the main swamp at the head of Combahee river; the said courts at Beaufort, of all such pleas within Beaufort precinct or district, which shall include all places to the southward of Combahee river and the swamp aforesaid, between the sea and the said line, to be continued from the main swamp, aforesaid, to Mathew's bluff, on Savannah river; the said courts at Orangeburgh, of all such pleas between Savannah, Santee, Congaree and Broad rivers, the said line from Nelson's ferry to Mathew's bluff, and a direct line to be run from Silver Bluff, on Savannah River, to the mouth of Rocky creek, on Saludy river, and thence in the same course to Broad river; the said courts of Georgetown, of all such pleas within Georgetown precinct or district, which shall include all places between Santee river, aforesaid, the sea and the line which divides the parish of Saint Mark from Prince Frederick's, which shall be continued in the same course across Pee-dee to the North Carolina boundary; the said courts at Camden, of all such pleas within Camden district or precinct, which shall be bounded by the said last mentioned line, Santee, Congaree and Broad rivers, and by a northwest line from the northernmost corner of Williamsburgh township to Lynche's creek, and from thence by that creek to the provincial line: and the said courts at the Cheraws, of all such pleas within the Cheraws district or precinct, which shall be bounded by the said last mentioned line, the provincial boundary, and the line dividing St. Mark and Prince Frederick's parish, which shall be continued till it intersects the northern provincial line; and the said courts at Ninety-Six, of all such pleas within the Ninety-Six district or precinct, which shall extend to all other parts of this Province; *provided nevertheless*, that special courts for transient persons shall be holden only at Charlestown, as heretofore.

III. *And be it further enacted* by the authority aforesaid, That the chief justice of this Province, and the assistant judges and justices for the time being, of the court of General Sessions of the Peace, Oyer and Terminer, Assize and General Gaol Delivery, and of the court of Common Pleas, already established in this Province, and in case of the sickness or absence of any of them, any persons for that time commissioned and appointed for that purpose by the Governor or Commander-in-chief of this Province, shall be judges of the courts above established; and they, or any one of them, shall and may have, hold and exercise the same powers and authorities therein, respectively, touching all matters within the limits of their jurisdiction, aforesaid, as the said courts at Charlestown now do; and that the said courts shall and may, from time to time, make such just and reasonable rules and orders, (not contrary to any thing herein contained,) for the regular and more convenient conducting and effectual dispatch of business therein, as to them shall seem necessary and proper; and all writs

Powers of the judges of such courts.

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and other process in civil actions, triable in the said circuit courts, shall issue from, and be returnable to, the court of Common Pleas in Charlestown, in the usual manner, but with this variation, that instead of being directed to the provost marshal, they shall be directed to all and singular the sheriffs of the said Province, and shall be served by the sheriff (or his deputy,) for the district where the defendant is found or resides, and all proceedings thereon shall be carried on in the said court in Charlestown, until the cause shall be at issue; and that the practice and proceedings in the said courts, respectively, shall be as nearly similar as may be to those now held in Charlestown, and to the courts holden in Great Britain by his Majesty's justices of Assize, Oyer and Terminer, and General Goal Delivery, and also of *nisi prius*; *provided nevertheless*, that nothing herein contained shall extend or be construed to put in force any statute of Great Britain, which is not otherwise of force in this Province; and that in all capital cases, the said courts of General Sessions of the Peace, Oyer and Terminer, Assize and General Gaol Delivery, shall have power to respite execution until thirty days after sentence.

Proceedings in
sum. pro.

IV. *And be it further enacted* by the authority aforesaid, That it shall and may be lawful for the said judges in the said courts, or any of them, to determine without a jury in a summary way on petition, all disputes cognizable in the said courts, for any sum not exceeding twenty pounds sterling, except where the title of lands may come in question, in which suit the plaintiff and defendant shall have the benefit of all matters in the same manner as if the suit were commenced in the ordinary forms of common law or in equity, and the said judges are hereby required so to do, and to give judgment and award execution, together with costs, against the body or goods of the party against whom the same shall pass; but in case both parties shall desire to have the said causes tried by a jury, or on application of either party at his own expense, then the said judges shall immediately order issue to be joined, and the said cause to be tried by the jury impanelled at such circuit court: that the said petition shall contain the plaintiff's charge or demand, plainly and distinctly set forth, a true copy whereof shall be personally served or left at the defendant's usual and notorious place of abode, by the sheriff or his deputy for the district where the cause is determinable, twenty days before the first sitting of the said court; and where bail is required, an affidavit shall be made of the debt, and indorsed on the petition, in which case the sheriff shall take a bail bond, which shall be subject to the order of the court: that the following fees, and no others, shall be allowed in such proceedings, viz:

Fees.

To the Attorney, for the petition and copy, three shillings proclamation money.

For attending the hearing the cause and taking out execution, ten shillings, proclamation money.

A fee to counsel, if any appears, twenty shillings, proclamation money.

To the Sheriff, for serving a copy of the petition, eight shillings, proclamation money.

To the Clerk, for attending the hearing the cause, filing all the proceedings, and entering the judgment among the acts of court, in a book to be kept for that purpose, six shillings, proclamation money: *provided always*, that every person shall have a right to transact his own business before the said judges, in the summary way aforesaid, without employing any counsel or attorney, whatever.

V. *And be further enacted* by the authority aforesaid, That the clerk

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of the crown and pleas, and the clerk of the court of Common Pleas, of the Province aforesaid, for the being, shall have power to act by themselves, in the business of their proper courts, or to appoint clerks of the said courts, respectively, for the conduct of which clerks they shall, respectively, be answerable.

Clerks may appoint deputies.

VI. *And be it further enacted* by the authority aforesaid, That the office of provost marshal of this Province shall be, and the same is hereby, forever abolished, and that a sheriff for each of the districts or precincts above mentioned, shall be appointed in the following manner, (viz) the court of Common Pleas at their first sitting after his Majesty's gracious allowance of this Act, and after the court houses and gaols hereinafter mentioned shall be built, and every second year thereafter, at their meeting at October court, shall nominate three proper persons, being freeholders, resident in the district or precinct for which they are to be appointed, whose names they shall present to his Excellency the Governor, Lieutenant Governor, or Commander-in-chief for the time being, in order that he may commission one of them to be sheriff of such district and precinct, which sheriff, so commissioned, shall be sheriff of that respective district and precinct accordingly; and in case any person or persons so presented by the said chief justice and justices, and so commissioned by the Governor or Commander-in-chief, as aforesaid, shall neglect or refuse to take upon himself and execute the office of sheriff, in manner herein directed, such person so neglecting or refusing, shall forfeit the sum of one hundred pounds, proclamation money; *provided nevertheless*, that nothing in this Act shall extend or be construed to extend to compel any member of his Majesty's Council, or any member of the Commons House of Assembly for the time being, to serve in the office of sheriff; and that the said sheriffs, before they enter upon the execution of their said offices, shall take the oaths of allegiance and supremacy, and the oath of office, and make and subscribe the usual declaration, before some person appointed to administer the State oaths, and give bond, with security, for the sum of two thousand pounds, proclamation money, to the public treasurer, in behalf of the public of this Province, for the due and faithful discharge and execution of their said offices; and the said bonds shall remain in his office, and may be sued for by order of the said court, for satisfaction of the public and all private persons aggrieved by the misconduct of the said sheriffs; and in case of the death, removal from this Province, or refusal to act, of any persons so appointed sheriffs, the chief justice and assistant judges and justices, or the justices of the court of Common Pleas, for the time being, shall immediately meet at the State house, in Charlestown, and nominate three persons to be presented to the Governor or Commander-in-chief for the time being, who shall commission one of them to serve as sheriff for the remainder of the said time, in like manner as is before directed, and no longer, who shall take the said oaths and give bond, and have the same emoluments, and be under the like penalties, as other sheriffs appointed by virtue of this Act.

Sheriffs to be appointed, and how.

VII. *And be it further enacted* by the authority aforesaid, That the said sheriffs shall, by themselves or their lawful deputies respectively, attend all the courts hereby appointed or directed to be held within their respective districts; and that the said sheriffs shall have the like powers and authorities, and they and their under sheriffs and goalers be subject and liable to all actions, suits, fines, forfeitures, penalties and disabilities whatsoever, which any sheriff, under-sheriff or goaler is liable or subject to, or may

Duties and liabilities of sheriffs.

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incur by the laws and statutes of Great Britain, for and in respect of the escapes of prisoners, or for or in respect of any other matter or thing whatsoever, relating to or concerning their several and respective offices.

Persons serving as sheriff, not again liable for ten years.

VIII. *And be it further enacted* by the authority aforesaid, That no person who shall have served the office of sheriff of any district or precinct, or shall have paid the fine for not executing the said office, shall be, within the ten years next ensuing, again liable to pay any fine for not serving in the same office of sheriff; and that no sheriff, under-sheriff, sheriff's clerk or other sheriff's officer, shall be an attorney or act as such, in his own name, or in the name of any other person, or be allowed to plead or practise in any of the King's courts in this province, during the time that he is in any such office.

Sheriff to turn over papers and prisoners to his successor.

IX. *And for the ease of sheriffs with regard to the return of process; Be it enacted* by the authority aforesaid, That the sheriff of each district or precinct, shall, at the expiration of his office, turn over to the succeeding sheriff, by indenture and schedule, all such writs and process as shall remain in his hands unexecuted, who shall duly execute and return the same; and in case any such sheriff shall refuse or neglect to turn over such process in manner aforesaid, every such sheriff so neglecting or refusing, shall be liable to make such satisfaction by damages and costs to the party aggrieved, as he, she or they shall sustain by such neglect or refusal; and the said sheriff shall also deliver up to his successor the custody of the goal, and the bodies of such persons who shall be confined therein, and the cause of their detention.

Fees,

X. *And be it further enacted* by the authority aforesaid, That the fees to the judges and several officers of the said courts, shall be the same as those of the same officers in the courts now holden in Charlestown, except where the proceedings shall be summary, as above mentioned, and the sheriffs shall have the same fees for business done therein by him, as the provost marshal hath had.

Building gaols and court houses.

XI. *And be it further enacted* by the authority aforesaid, That the judges of the said courts for the time being, shall be, and they are hereby, authorized, empowered and required, to contract and agree with proper persons for the building and erecting court houses and goals, in the most convenient places for holding the said courts, in the country districts and precincts hereinbefore mentioned, and for the purchase of land for that purpose, and that provision for defraying the expense thereof shall be made in such a manner as the General Assembly shall think fit.

This Act, when to take effect.

XII. *And be it further enacted* by the authority aforesaid, That this Act shall not extend to any action which shall be commenced before notice by proclamation of the Governor or Commander-in-chief, that the said court houses and prisons are built and compleated, but that all such actions and suits shall and may be proceeded in and determined in the same manner as if this Act had never been made; *Provided*, that no person shall be obliged to serve as a juror out of the district or precinct wherein he shall by this Act be liable to serve after courts have been therein respectively holden.

Clerk not to act as attorney.

XIII. *And be it further enacted* by the authority aforesaid, That no clerk of any of the courts aforesaid shall act as an attorney or solicitor therein, or in any other court, and that no person shall practise in or solicit the cause of any other in the said courts, unless he has been or shall be admitted a barrister at law or an attorney thereof, by the court of Common Pleas in Charlestown, or an attorney of that court, and an inhabitant of this Province.

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XIV. *And be it further enacted* by the authority aforesaid, That the said courts shall be courts of record, and all persons necessarily going to, attending or returning from the same, shall be free from arrests in any civil action.

XV. *And be it further enacted* by the authority aforesaid, That as soon as may be after the ratification of this Act, and after the court houses and goals herein mentioned are built, the judges of the said court of Common Pleas in Charlestown shall cause lists of jurors in civil causes, grand and petit jurors, to be made for Charlestown, and also for each of the country districts and precincts, from the next antecedent tax list of persons within such respective districts or precincts aforesaid, whose names shall be written on separate pieces of paper; and the said judges shall cause jury boxes to be made for the said courts, and for the courts of General Sessions, to be provided at the public expense; and the said jury lists shall be put in the said boxes respectively, which boxes shall remain in charge of the respective sheriffs aforesaid, and shall be locked with the keys of any one of the judges and the sheriff of the district; and also, a box containing the names of special jurors, to consist of the inhabitants of Charlestown, for Charlestown district, and of persons living within five miles of the several court houses, for each district or precinct respectively, out of which said lists of special jurors, both in town and country, all *tales* shall be drawn; and the jurors for the said courts shall be drawn, summoned and empaneled, as nearly as may be, in the same manner as grand and petit jurors now are, the time of drawing, and places of meeting, and the attendance of the treasurer and coroner excepted, which shall be regulated by the said justices by a general rule of court, to be made and confirmed for that purpose, and entered in the Acts of each of the said courts; which method shall be pursued in the drawing of jurors until other jury lists shall be established by law.

Jury lists to be made.

XVI. *And be it further enacted* by the authority aforesaid, That whenever it shall please his most sacred Majesty to appoint the chief justice and justices of this Province during good behaviour, the said chief justice and justices respectively, shall receive a salary, that is to say:—the chief justice, five hundred pounds, and each of the assistant judges and justices, three hundred pounds sterling per annum.

Salaries of Judges.

XVII. *And be it further enacted* by the authority aforesaid, That the present Attorney-general shall receive a salary of two hundred pounds sterling per annum, and the present clerk of the Common Pleas, three hundred pounds sterling per annum.

XVIII. *And be it further enacted* by the authority aforesaid, That all fines, penalties and forfeitures, that shall be imposed or recovered in any of the courts aforesaid by virtue of this Act, shall be paid into the treasury and appropriated and applied towards paying the several salaries hereinbefore granted, and in case they shall be insufficient for that purpose, then the public treasurer of this Province is hereby directed, authorized and required to pay the said salaries, annually, out of any money lying in the treasury.

Fines and forfeitures appropriated to pay salaries.

XIX. *And be it further enacted* by the authority aforesaid, That it shall and may be lawful for the court of Common Pleas in Charlestown, by consent of both parties, in any civil action concerning trade and disputes with merchants, or where the value in dispute is equal to fifty pounds sterling, or on application by either party at his expense, to order a special jury to be struck for trial of the said cause, either at bar (if a cause of

Special juries, when allowed.

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weight and importance,) or at the circuit court, to be holden in the district where the said cause shall be by this Act triable, which shall be done in the following manner, that is to say:—in case of a trial at bar, out of the list of jurors hereby directed to be made for Charlestown precinct or district, each party shall deliver to the said court the names of thirty persons, out of which number thirty shall be drawn by ballot, and the said thirty shall be summoned as a jury in the said cause, and out of the number appearing, twelve shall be drawn in like manner, who shall try the said cause; and in case of a trial in any of the circuit courts hereby established, the names of the said jurors shall be taken and struck as aforesaid, from the list of jurors for the district wherein the said courts shall be held; *Provided*, that nothing herein contained shall debar any person of legal challenges to any of the said jurors, and that for want of a sufficient number, the court in which the said cause is to be tried, shall and may order a *tales* to be drawn, in the same manner as is hereinbefore directed.

Bail.

XX. *And be it further enacted* by the authority aforesaid, That no person shall be held to bail on any writ of *capias ad respondendum* for debt, unless an affidavit shall be made before, and attested by, some judge or justice of the peace, and indorsed on or annexed to the writ before the service thereof, of the sum really due; nor for any other cause without a judge's order on probable cause of action shown, to be indorsed on or annexed to the said writ, expressing the sum for which bail shall be given.

Attorney-general
may appoint
deputies.

XXI. *And whereas*, it may often happen that the Attorney-general or counsel for the King cannot attend to prepare or prosecute indictments for criminal offences; *Be it therefore enacted* by the authority aforesaid, That the Attorney-general for the time being is hereby authorized and empowered to depute a fit person, being a barrister or attorney at law, for whose conduct he shall be answerable, to prepare and prosecute indictments in his stead, at such district and precinct courts where he cannot attend to execute the duty of his office in person; any thing in this or any other Act of Assembly to the contrary thereof in any wise notwithstanding; *Provided nevertheless*, that in case the Attorney-general or his deputy shall not attend any of the said courts, that then any barrister or attorney at law may prepare and prosecute indictments by leave and appointment of the justices of the said district or precinct courts, and be allowed the same fees as are appointed for the Attorney-general.

Commissioners
of bail, &c. to
be appointed.

XXII. *And be it enacted* by the authority aforesaid, That the judges of the said courts shall appoint fit and proper commissioners in each district, who shall have power and authority to take recognizances of special bail and affidavits, (such recognizances being sealed and signed with the proper hand writing or mark of the person or persons entering in or making the same,) in any causes depending in the said courts, and to certify and transmit the same to the said courts, where they shall be deemed and taken to be as valid and effectual as if made or taken before any of the judges thereof.

Court failing to
be held, how to
be adjourned.

XXIII. *And be it further enacted* by the authority aforesaid, That in case, by any unavoidable accident, the said courts shall fail to be held at the times respectively appointed for holding the same, the proceedings shall not be discontinued, but that any one of the commissioners for taking recognizances of bail and affidavits, or the clerk of the court, shall and may adjourn the said courts *de die in diem*, not exceeding six days, until the said court shall meet; and in case they shall not meet and sit in six days as aforesaid, the said commissioners or clerk of the court shall adjourn the same to the next circuit court, to which time all causes then depending shall be continued over.

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XXIV. *And be it further enacted* by the authority aforesaid, That all the fines or forfeitures accruing or arising by virtue of this Act, shall be sued for in the name of the King, and when recovered, shall be disposed of as is hereinbefore directed and appointed.

XXV. *And be it further enacted* by the authority aforesaid, That this shall be deemed a public Act, and may be given in evidence without special pleading; and if any person shall be sued for any thing done in pursuance hereof, and judgment shall pass for the defendant, either on verdict, nonsuit or demurer, or the plaintiff shall discontinue his action, the defendant shall recover treble costs. This a public Act.

XXVI. *And be it further enacted* by the authority aforesaid, That nothing herein contained shall be of any force, virtue or efficacy, until public notice of his Majesty's gracious allowance and approbation of this Act shall be given by proclamation of the Governor or Commander-in-chief of this Province for the time being, but that all and every matter and thing herein contained shall, as soon thereafter as the same shall be practicable, be observed and carried into execution, according to the true intent and meaning of this Act. When to go into effect.

P. MANIGAULT, *Speaker.*

In the Council Chamber, the 12th day of April, 1768.

Assented to:

C. G. MONTAGU.

AN ORDINANCE TO DIVIDE THE JUDGES'S FEES IN THE COURT OF COMMON PLEAS AND GENERAL SESSIONS OF THE PEACE, EQUALLY AMONG ALL THE JUDGES; AND TO PREVENT ANY JUDGE WHO MAY BE HEREAFTER APPOINTED A DELEGATE TO CONGRESS, FROM RECEIVING THE EMOLUMENTS OF BOTH OFFICES. No. 1170.

I. *Be it ordained*, by the honorable the Senate and House of Representatives, in General Assembly met, and by the authority of the same, That all the fees which shall hereafter be due to the chief justice, or assistant justices, of the court of common pleas, or of the court of general sessions of the peace, for business transacted in the said courts, shall be equally divided between the chief justice and each of the assistant justices of the said courts; *provided nevertheless*, that the fees which shall be due to the judges for business actually transacted in the circuit courts, shall be appropriated to such judge as shall perform the same.

II. *And be it also ordained* by the authority aforesaid, That if at any time hereafter, the chief justice, or either of the assistant justices, should be appointed a delegate from this State to the Congress of the United States, the salary and fees of such chief or assistant justice shall cease during his or their absence from the State.

In the Senate House, the twelfth day of March, in the year of our Lord one thousand seven hundred and eighty-three, and in the seventh year of the Independence of the United States of America.

JOHN LLOYD, *President of the Senate.*

HUGH RUTLEDGE, *Speaker of the House of Representatives.*

A. D. 1783.

Acts relating to Courts.

No. 1172. AN ACT FOR CONTINUANCE OF PROCESS AND JUDICIAL PROCEEDINGS
IN THIS STATE.

Preamble.

WHEREAS, the several proceedings of the Courts of Justice within this State, have been discontinued since the surrender of Charlestown into the hands of the British, and it is necessary to revive and continue such proceedings :

Suits, writs,
&c. continued
of force.

I. *Be it therefore enacted*, by the honorable the Senate and the House of Representatives, in General Assembly now met, and by the authority of the same, 'That no pleas, writs, bills, informations, actions, suits, complaints, process, precepts, or other thing whatsoever, pleaded, returned, depending, or having day, in either of the courts of sessions or common pleas, within any of the districts of this State, at any time before the surrender of Charlestown, and which could not be determined by reason the said courts not sitting at the usual times, shall be in any wise discontinued or put without day, by reason of their not holding or keeping of any of the said courts within the districts aforesaid, either before or since the capitulation of Charlestown, at any of the times or at the places appointed by law for the holding or sitting of any such courts, but all and singular the said writs, bills, informations, pleas, actions, suits, complaints, process, precepts and other proceedings as aforesaid, shall stand continued and be revived, and be good and effectual in law, to all intents and purposes, as if the said courts had been actually kept and holden regularly and uninterruptedly at the several and respective times and places appointed by the laws of this State for the holding and sitting of the same ; any law, custom or usage, to the contrary thereof in any wise notwithstanding.

Cases in Chan-
cery revived.

II. *And whereas also*, by the death of several persons who were parties, either in their own right, or as executors or administrators, to suits depending in the court of chancery of this State, the said suits have abated and discontinued, whereby great prejudice arises to many innocent persons ; *Be it therefore enacted* by the authority aforesaid, That no suits which were depending in the said court shall be discontinued or abated by the death of any of the parties to the same, but the survivor or survivors in such suits, shall be at liberty to prosecute the same ; and the judges of the court of chancery shall be, and they are hereby, authorized, upon the application of any one or more of the parties to any proceedings now pending in the said court where the pleadings have been all filed, to proceed to a hearing and determination of such causes respectively, first giving notice to the representatives of such of the parties, or to the surviving executors, administrators or trustees, as the case may be, that have died since the commencement of such suits, who may nevertheless avail themselves of any matter by supplementary bill, answer, or other pleadings ; and the decrees of the said court of chancery shall be binding on the said representatives, as fully as if such parties were still living.

III. *And be it further enacted* by the authority aforesaid, That all pleas, writs, informations, actions, suits, complaints, process, precepts, and other things whatsoever, depending or having day in any of the said courts, or which shall commence previous to the sitting of the said courts, as appointed by this law, are hereby continued and adjourned over unto the next sitting of the said courts respectively, in their respective districts, at the times hereinafter mentioned for the holding of the same.

IV. *And be it further enacted* by the authority aforesaid, That the several courts of general sessions and common pleas hereafter to be held in any

Acts relating to Courts.

A. D. 1783.

of the districts of this State, shall be held at the respective times and places hereafter mentioned, (that is to say,) the courts of general sessions and common pleas for the district of Charlestown, shall begin to be holden on the twenty-second day of March next, at Charlestown, and after such sitting, the said courts, with the business in them depending, shall be adjourned over to be held at Charlestown, as hitherto have been appointed by law for the holding of said courts for the said districts; and that the said courts to be holden for the several other districts in this State, excepting Charlestown district, shall hereafter be holden and shall sit at the times and places heretofore appointed by law for the holding and sitting of such courts.

V. *And be it further enacted* by the authority aforesaid, That the judges of this State, or any of them, shall, at the first sitting of the courts of general sessions and common pleas in Charlestown, cause a jury to be drawn for each of the districts of this State, out of the jury lists of such districts annexed to this Act, and shall cause a writ of *venire facias* to be issued to the sheriffs of such districts respectively, to summon such persons who shall be drawn for such jury, to attend at such courts for which such persons shall be so drawn as jurors, at the times and places appointed by law for the holding of such courts respectively; and that all jurors to be drawn, and *venires* to [be] issued afterwards, for the holding of any future courts, shall be drawn and issued at the times and places and in manner as heretofore appointed by law.

VI. *And be it further enacted* by the authority aforesaid, That the several courts hereafter to be held under and by virtue of this Act, shall have all and every the powers, jurisdiction and authorities whatever, in as full and as ample a manner, to all intents and purposes, as any such courts have at any time or times heretofore held, used or exercised; and that all and every person or persons, drawn and summoned to serve as jurors at any such courts, shall, for any default, be subject and liable to all the pains and penalties imposed on jurors by any Act or Acts of the General Assembly of this State.

VII. *And be it further enacted* by the authority aforesaid, That immediately after the passing of this Act, the judges of this State, or any one of them, shall, out of the lists annexed to this law, cause the sheriffs of the different districts of this State to have a jury list made for their respective districts, according to law, and the names of such jurors to be put into a box for that purpose, in manner, and to be kept, as heretofore directed by law; and that immediately after the passing of a tax Bill for this State, and making a tax list, or as soon as practicable thereafter, the said judges, or any of them, shall cause such sheriffs to add to such names in such boxes respectively, all the names of such persons within their respective districts, who are liable to serve on juries, and who have been omitted in such lists as are hereunto annexed, which addition any of the said judges of this State, on their respective circuits which they shall ride, shall have power, and are hereby authorized, to cause to be made.

In the Senate House, the sixteenth day of March, in the year of our Lord one thousand seven hundred and eighty three, and in the seventh year of the Independence of the United States of America.

JOHN LLOYD, *President of the Senate.*

HUGH RUTLEDGE, *Speaker of the House of Representatives.*

[Lists of names omitted.]

A. D. 1784.

Acts relating to Courts.

No. 1209.

AN ACT FOR ESTABLISHING A COURT OF CHANCERY.

Preamble.

WHEREAS, by the Constitution or form of government, it is declared, that the Lieutenant Governor of the State, and a majority of the privy Council, for the time being, shall, until otherwise altered by the Legislature, exercise the powers of a Court of Chancery; *and whereas*, many inconveniences arise from so frequent a rotation of the members who compose the said court, as is required by the Constitution in the office of privy counsellors :

Present court of Chancery abolished.

I. *Be it therefore enacted*, by the honorable the Senate and House of Representatives, now met in General Assembly, and by the authority of the same, That from and immediately after passing this Act, the power and authority of the court of Chancery, as established by the constitution or form of government of this State, on the nineteenth day of March, in the year of our Lord one thousand seven hundred and seventy-eight, shall cease and determine.

Three Chancellors appointed.

II. *And be it further enacted* by the authority aforesaid, That the court of Chancery shall, in future, consist of three judges, to be chosen by joint ballot of the Senate and House of Representatives, and commissioned by his Excellency the Governor, during good behaviour, removeable, nevertheless, on the address of both Houses of Assembly.

Qualification.

III. *And be it further enacted* by the authority aforesaid, That every person elected and commissioned as aforesaid, before he shall enter upon the duties of his office, shall take and subscribe the oath of fidelity to the State, and shall also take the following oath of office, which the Governor or Commander-in-chief is hereby directed to administer, to wit: "I, A B, do swear, that I will well and truly serve the people of this State in the office of judge of the court of Chancery, and that I will do equal right to all manner of people, great and small, high and low, rich and poor, according to equity and good conscience, and the laws and usages of South Carolina, without respect of persons, according to the best of my knowledge, skill and abilities. So help me God." And if any persons shall presume to execute the said office without being qualified as this Act directs, he shall forfeit and pay the sum of ten thousand pounds sterling, to be applied to the use of the State, and which shall be sued for and recovered by the Governor or Commander-in chief for the time being, ex-officio.

Powers of the Chancellors.

IV. *And be it further enacted* by the authority aforesaid, That all the powers and authorities which have been at any time vested in or exercised by a court of Chancery in this State, for the purpose of making such rules and orders as may be thought expedient and necessary for carrying on the proceedings in the said court, either before or since the revolution, shall be, and they are hereby, vested in or may be exercised by the said judges, or any two of them; and the said judges, or any two of them, are hereby fully authorized and empowered to hear, and finally to determine, all such matters and causes as shall from time to time be brought before the said court.

V. *And be it further enacted* by the authority aforesaid, That the said judges, or any two of them, shall have full power and authority to establish such standing rules and orders (not repugnant to this Act) for regulating the practice of the said court, as they shall deem most consistent with justice and equity, and as may effectually tend to the dispatch of business, without unnecessary delay to suitors.

Acts relating to Courts.

A. D. 1784.

VI. *And be it further enacted* by the authority aforesaid, That no suit or petition in Chancery, on which a decree or dismissal has not been yet obtained, shall be considered as dismissed or discontinued, for any past delay of prosecution, but that all such suits and petitions shall be deemed to be pending in the court hereby established, and to be now in the same state as they were in when the last proceedings was had thereon; and that every such suit or petition shall be finally determined within one year from and after the passing of this Act; and every petition or suit which shall be hereafter preferred to or instituted in the said court, shall be finally decided within one year after the same shall have been preferred or commenced, unless upon application, in full and open court, in term time, and for special reasons to be assigned, on account of the absence of material witnesses, or of some of the parties, or any other equitable cause, the court shall think proper to extend the time (not exceeding twelve months longer) for the determination of the suit.

Undecided
suits to be
resumed, and
in what time
suits to be
determined.

VII. *And be it further enacted* by the authority aforesaid, That the said court shall be considered as always open for administering justice to suitors; and that in the vacation, any one of the said judges may make such rules and orders, preparatory to hearing, in any suit or cause depending in the said court, as may be necessary.

Court to be
always open.

VIII. *And be it further enacted* by the authority aforesaid, That the stated terms for holding the said court, and for the full and solemn hearing of causes, shall be on every second Monday in March, June and September, and on every third Monday in December, and that the said court shall sit at the said times *de die in diem*, (Sundays excepted) at the place where the courts of common pleas are usually held in Charleston, until all the causes ready for hearing, (and which shall be set down, or entered for hearing with the register of the said court, ten days previous to the first day of each term,) shall be heard.

Stated terms,
when to be
held.

IX. *And whereas*, the obliging a complainant seeking relief from a verdict or judgment at law, to deposit the sum for which such verdict or judgment was obtained, before an injunction can issue to stay execution, although his prayer is manifestly founded in equity, hath been and would be attended with much inconvenience to suitors, and in many instances may amount to a denial of justice; *Be it therefore enacted* by the authority aforesaid, That a party applying for an injunction to stay proceedings in an action at law, or judgment, or execution, or the levying of execution, shall be intitled to such injunction, on making oath, or giving his affirmation, (according to the form of his profession,) to the truth of his bill, and giving bond to the plaintiff at law, with security, to be approved by the master in Chancery, for such sum, and with such condition, as the court shall direct, if, upon the merits of the motion for such injunction, (of which motion due notice shall always be given to the adverse party,) the complainant shall appear, from the equity stated in his bill, to be entitled to an injunction.

Injunctions.

X. *And be it further enacted* by the authority aforesaid, That there shall be a register of the said court, to be appointed by the Governor, with the advice of the privy Council, and commissioned during good behaviour.

Register.

XI. *And be it further enacted* by the authority aforesaid, That the sheriff of the district in which the party against whom any process of the said court issues resides, or the estate to be effected thereby lies, shall execute and make a proper return of all such process, writs of subpœna only excepted.

Sheriff to execute and return process.

A. D. 1784.

Acts relating to Courts.

Proceedings in
case defendant
is without the
State.

XII. *And be it further enacted* by the authority aforesaid, That if in any suit in the said court, a defendant against whom process shall issue, shall not cause an appearance to be entered thereupon, as it ought to have been if such process had been duly served, and affidavit shall be made, to the satisfaction of the court, that such defendant is without the limits of this State, or that, on enquiry at his or her usual place of abode, he or she could not be found to be served with such process, the said court may make a rule or order, directing and appointing such defendant to appear at a certain day therein to be mentioned, and a copy of such order shall, within ten days after making thereof, be inserted in the South Carolina Gazette, and continued for three months, and another copy thereof posted up at a door of the State House, in Charleston; and if the defendant shall not appear within the time limited by such order, on proof made to the satisfaction of the said court of the publication thereof as aforesaid, the court may order the complainant's bill to be taken *pro confesso*, and make such decree thereon as to the said court shall appear just and equitable, and issue the process necessary to enforce the execution or compel the performance of the said decree, the complainant first giving sufficient security, in such sum as the court shall think proper, to abide such order as may be made, on the defendant's appearing to the suit, and paying such costs to the complainant as the court shall order; *provided always*, that if any person against whom such decree shall be made, or his or her legal representative, shall, within four years after passing the said decree, if without the limits of the United States, and within two years if absent from this and within the United States, appear in court, and petition to be heard with respect to the matter of such decree, and shall pay down or give security for payment of such costs as the court shall think proper, the person so petitioning shall be admitted to answer, plead or demur to the bill; and such proceedings shall be thereupon had in the said suit, as there might have been, in case the party had originally appeared, and as if no former order or decree had been made in the said cause.

Defendant not
appearing
within the time
allowed, de-
cree to be
confirmed.

XIII. *And be it further enacted* by the authority aforesaid, That if neither the person against whom such decree shall be made, or his legal representative, shall appear and petition for a rehearing, and pay, or give security for payment of, such costs, within the time above mentioned, such decree shall stand absolutely confirmed against the person against whom it was made, his legal representatives, and all claiming under him; but if such defendant shall be in custody at the time a decree shall be made, upon refusal or neglect to enter an appearance, or to appoint an attorney as aforesaid, or shall be forthcoming so as to be served with a copy of the decree before any process shall issue to compel the performance thereof, and if such defendant shall die in custody before such copy is served on him or her, then the heir at law, if any real estate be effected thereby, or if only personal estate, the executors or administrators, shall be served with such copy within six months after such death; or if the heir, executor or administrator be out of the State, then the said decree to be published in the South Carolina Gazette, and also posted up at the front door of the State House, in Charleston, for three weeks previous to further proceedings.

XIV. *And be it further enacted* by the authority aforesaid, That if any person brought into the said court, on process issued therefrom, shall refuse or neglect to enter an appearance, according to the rules of the court, the court may appoint a solicitor to enter an appearance for such defendant, and thereupon, such proceedings shall be had in the said cause as if the party had actually appeared.

Acts relating to Courts.

A.D. 1785.

XV. *And be it further enacted* by the authority aforesaid, That each of the said judges shall be allowed a salary of five hundred pounds sterling per annum, payable quarterly, at the treasury of this State, in lieu of all fees and perquisites of office whatsoever. Salary.

In the Senate House, the twenty-first day of March, in the year of our Lord one thousand seven hundred and eighty-four, and in the eighth year of the Independence of the United States of America.

JOHN LLOYD, *President of the Senate.*

HUGH RUTLEDGE, *Speaker of the House of Representatives.*

AN ACT FOR THE MORE SPEEDY AND EFFECTUAL ENFORCING THE EXECUTION OF DECREES IN THE COURT OF CHANCERY. No. 1264.

WHEREAS, the present mode of enforcing obedience to Decrees in the court of Chancery is tedious, and often defective.

I. *Be it therefore enacted* by the honorable the Senate and House of Representatives, and by the authority of the same, That in all cases where payment of money is decreed by the said court, it shall be lawful for the party to whom such payment is to be made, to sue forth (at his option,) either the usual process for compelling performance of the said decree, or a writ in nature of a *feri facias*, to make the estate, both real and personal, of the party by whom such money is to be paid, liable to satisfaction thereof, in the same manner as it is on such a writ from the court of Common Pleas; and that the sheriff of the district in which the estate levied upon lies, shall have the same power and authority to sell and convey the same, as he hath on a *feri facias* from the Court of common Pleas, and be entitled to the like fees for the execution thereof.

In the Senate House, the twelfth day of March, in the year of our Lord one thousand seven hundred and eighty-five, and in the ninth year of the Independence of the United States of America.

JOHN LLOYD, *President of the Senate.*

JOHN FAUCHEREAUD GRIMKE,
Speaker of the House of Representatives.

AN ACT FOR ESTABLISHING COUNTY COURTS, AND FOR REGULATING THE PROCEEDINGS THEREIN. No. 1281.

WHEREAS, experience hath proved the utility of courts of inferior jurisdiction, for the more expeditious determination of suits and controversies, and the recovery of debts.

I. *Be it therefore enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and it is hereby

A. D. 1785:

*Acts relating to Courts.*County courts
established.

enacted by the authority of the same, That in every county of this State, a court shall be held once in every three months, by the justices appointed in the manner hereinafter mentioned to preside in and hold the same at the several places assigned by law for holding the same, and on the several days hereinafter limited for each county, respectively, and at no other time or place; which courts shall be called county courts, and shall be held and administered by seven justices of the peace, all of whom, in the first instance, shall be elected by a joint nomination of the Senate and House of Representatives, who shall be qualified in the manner this Act directs; and if any vacancies shall happen by the death, resignation or removal out of the county, of any of the said justices, the remaining justices, or a majority of them, shall have full power to nominate and appoint other fit and proper persons to fill up such vacancies, who shall be qualified in like manner, until the next meeting of the Legislature thereafter, when such nomination and appointment shall be annulled or confirmed, and shall be commissioned by the Governor and Commander-in-chief for the time being, during good behavior; any three or more of whom shall have full power and jurisdiction to hold the said county courts, and to hear and determine all causes and other matters and controversies properly appertaining and referred by law to their jurisdiction; and every person so appointed shall, previously to his entering upon and executing the said office, before the Governor or Commander-in-chief for the time being, or some one judge of the court of Common Pleas, take and subscribe the oath of allegiance and fidelity to this State, and shall also take the following oath, to wit:

Justices, how
to be appointed.*The oath of a justice of peace, authorized to sit in a county court:*

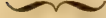
Oath.

I, A B, do solemnly swear, (or affirm, as the case may be,) that I will well and truly discharge the trust reposed in me, by administering justice according to law, in the county court of C, wherein I am appointed sit, according to the best of my knowledge, judgment and ability, without malice or partiality; and that I will not take any fee, gift or gratuity, except such as may be appointed by law, for any thing to be done by me in virtue of my said office; and that I will, without being influenced by fear, favor or affection, do equal justice and right to all manner of people, both high and low, rich and poor, without any equivocation or mental reservation. So help me God.

And if any person shall presume to execute the said office, without being first qualified as aforesaid, such person shall forfeit and pay, for every such offence, the sum of two hundred pounds sterling, one moiety thereof to the public treasury, towards the support of government, the other moiety to the informer, to be recovered, with costs, by action of debt, in any court of record in this State having jurisdiction thereof.

Courts, when
to sit.

II. *And be it further enacted* by the authority aforesaid, That the said county courts shall be constantly held, every three months throughout the year, upon the days hereinafter specified for each county respectively, that is to say: for the counties of Abbeville, Winaw, Granville, York and Richland, on the first Monday in January, April, July and October; for the counties of Edgefield, Hilton, Williamsburgh and Clarendon, on the second Monday in January, April, July and October; for the counties of Newberry, Lincoln, Marlborough, Berkley and Kingston, on the first Monday in March, June, September and December; for the counties of Laurens, Bartholomew, Shrewsbury and Chesterfield, on the second Monday in March, June, September and December; for the counties of Spartanburgh, Washington, Lexington and Claremont, on the third Monday in March, June, September and December; for the counties of Chester, Lancaster,

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Winton, Darlington and Charleston, on the third Tuesday in January, April, July and October; for the counties of Clarendon, Union, Liberty, Lewisburgh and Marion, on the fourth Monday in March, June, September and December; for the counties of Orange, Colleton and Fairfield, on the fourth Monday in January, April, July and October: *provided nevertheless*, that if the business of the said courts, respectively, cannot be determined on the court day, the justices may sit from day to day, not exceeding six days in the whole, and such causes and controversies, then depending before them, as cannot be heard and determined within that time, shall be adjourned over to the next county court.

III. *Be it further enacted* by the authority aforesaid, That the justices of every county court, as aforesaid, shall have full power and jurisdiction ^{Extent of jurisdiction.} to hear and determine all causes at the common law, within their respective counties, to any amount where the debt shall be liquidated by bond or note of hand, or where the damages on open account, assumpsit, detinue or trover, shall not exceed fifty pounds, and in all other personal actions where the damages shall not exceed twenty pounds, or where the title or bounds of lands shall be in question; and except, also, such criminal causes where the judgment, upon conviction, shall be for the loss of life or member, or for the infliction of corporal punishment; and except all causes of less value than is directed by the Act for the trial of small and mean causes, until the holding of the first county court in each county, respectively, when the jurisdiction of a single magistrate shall be confined to twenty shillings, and no more.

IV. *And be it further enacted* by the authority aforesaid, That it shall be lawful for any justice of the peace, upon complaint to him made, upon oath, by any person, that his debtor is removing out of the county privately, or absconds and conceals himself so that the ordinary process of law cannot be served upon him, to grant an attachment against the estate of such debtor, or so much thereof as shall be of value sufficient to satisfy the debt and costs of such plaintiff; which attachment, where the debt or demand would have been originally cognizable in the county court, shall be returnable to the next court of the county where the same was issued, and shall be directed to and served by the sheriff of the county or his deputy; and it shall be lawful for such sheriff to serve and levy the same upon the slaves, goods and chattels of the party absconding, where-soever the same shall be found, or in the hands of any person or persons indebted to, or having any effects of, the person absconding, and to summon such person or persons to appear at the next court to be held for the said county, there to answer, upon oath, what he or she is indebted to such party, and what effects of such party he or she hath in his or her hands, or had at the time of serving such attachment; which being returned executed, the court may thereupon compel, by order, such person or persons to appear and answer, as aforesaid; *provided always*, that every justice of peace, before granting such attachment, shall take bond and security of the party for whom the said attachment shall be issued, in double the sum to be attached, payable to the defendant, for satisfying and paying all costs that shall be awarded to the defendant, in case the plaintiff suing out the attachment therein mentioned, shall discontinue or be cast in his suit, and also all damages which shall be recovered against the said plaintiff, for his suing out such attachment; which bond shall be by the same justice returned to the court to which the attachment is returnable; and the party entitled to such costs and damages may bring suit and recover; and

Proceedings in attachment.

A. D. 1785.

Acts relating to Courts.

every attachment issued without such bond taken, or where no bond shall be returned as aforesaid, is hereby declared to be illegal and void, and shall be dismissed with costs; *provided, always*, that all attachments shall be repleviable by appearance and putting in special bail, if by the court ruled so to do, or by giving bond with good security to the sheriff or other officer serving the same, which bond the sheriff or other officer is hereby empowered and required to take, to appear at the court to which such attachment shall be returnable, and to abide by and perform the order and judgment of such court.

If security in-
sufficient, sher-
riff liable.

V. *And be further enacted* by the authority aforesaid, That upon the defendant or defendants replevying any attached effects, by giving bond and security to the sheriff or other officer, as aforesaid, the sheriff shall return the name or names of the security by him so taken, and if such security, upon motion, shall be adjudged insufficient by the court, and if the defendant shall fail to appear and give special bail, if thereunto ruled by the court, such sheriff or security shall be subject to the same judgment and recovery, and have the same liberty of defence and relief, as if such defendant was legally present in court.

Debtor remo-
ving, attach-
ment to issue,
directed to all
sheriffs of the
State.

VI. *And be it further enacted* by the authority aforesaid, That it shall be lawful for any creditor to go before any justice of the peace for the county where his debtor resides, and make oath how much is justly due to him, and that he has just grounds to suspect, and verily believes, that such debtor intends to remove his effects, and thereupon such justice shall issue an attachment against the estate of such debtor, returnable to his next county court, and directed to all sheriffs within the State of South Carolina, and by virtue thereof, it shall be lawful, as well for the sheriff or his deputy of the county wherein such attachment shall be obtained, as for the sheriffs or their deputies of other counties, through which such debtor may be going with his effects, to pursue and seize such effects, and make return to the court of the county to which the said attachment shall be returnable, and thereupon such proceedings shall be had as in other cases of attachment; *provided*, that if the sum exceeds fifty pounds in an open account, the writ of attachment shall be returnable to the circuit court of the said county; and upon complaint made to a justice of peace that any person indebted to the complainant, in any sum not exceeding three pounds, where a single Magistrate by this Act has jurisdiction, is about to remove, or is removing, out of the county, privately, or so absconds or conceals himself that a warrant of summons cannot be served upon him, it shall be lawful for such justice, taking bond and security in the manner hereinbefore described in other cases, to grant an attachment against the estate of such debtor, or so much thereof as shall be of value sufficient to satisfy the debt and costs of the plaintiff, directed to the sheriff or some constable of his county, and returnable before himself or some other justice of the peace thereof, who shall and may proceed and determine finally thereupon, as to justice shall appertain.

Goods attach-
ed to be sold.

VII. *And be it further enacted* by the authority aforesaid, That if any attachment returnable to the county court, or before a justice of the peace, shall be returned executed, and the goods or effects attached shall not be replevied, as aforesaid, the subsequent proceedings thereupon shall be the same as on original process against the body of the defendant, where there is default of appearance; and all goods and effects attached and not replevied, as aforesaid, shall, by order of the said court, be sold and disposed of, for and towards satisfaction of the plaintiff's judgment, in the same manner as

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if the same had been taken in execution upon the writ of *feri facias*; and where any attachment shall be returned served in the hands of any third person, it shall be lawful, upon his or her appearance and examination in the manner by this Act before directed, to enter up judgment as against the original debtor, and award execution against every such third person, for such monies as may be due from him to the absconding debtor, or such effects as may be in the hands or keeping of the said third person, belonging to such debtor, or so much thereof as will be of value sufficient to satisfy the judgment and costs of the plaintiff in attachment.

VIII. *And be it further enacted* by the authority aforesaid, That all original process by writ, petition and summons, or any other kind whatsoever, all subsequent process thereupon to bring any person or persons to answer in any action commencing, or to be commenced, in any county court, and all attachments awarded by the said courts at the common law, shall be issued and bear teste by the clerk of every county court, respectively, and be dated on the day whereon the same shall be issued, returnable to the next succeeding county court, and shall be executed four days at least before the day of the return thereof; and if any process shall be delivered to the sheriff or other officer serving the same, so late that he cannot execute such process four days before the return day thereof, such process shall not be executed, but the officer shall return the truth of the case; and if any original process be taken out within four days of the next court day, the same shall be made returnable to the next court to be held after the expiration of the said four days, and not otherwise; and all process issued or returned in any other manner than that hereinbefore directed, shall be, and the same is hereby declared to be, null and void: *Provided nevertheless*, that any justice or justices of the peace, by his or their warrant, may cause any traitor, felon, pirate, rioter or breaker of the peace, or other criminal offender, to be apprehended and brought before the same, or any other justice or justices, or before the next county court, although there be not four days between the execution of such warrant and the return day thereof.

IX. *And be it further enacted* by the authority aforesaid, That all manner of process issued by the clerks or county courts as aforesaid, wherein the sheriff who ought to execute the same shall be in any way interested, shall be directed to and served by the coroner of each county respectively; and when any process shall be executed wherein common bail shall be requirable, the sheriff shall return the name or names of the bail by him taken; and if he shall not return bail, or if the bail returned shall be adjudged insufficient by the court, or if the defendant shall fail to appear, or to give special bail, when ruled thereto by the court, such sheriff or bail shall be subject to the same judgment and recovery, and shall have the same liberty of defence and relief, as in like cases is by law provided in suits depending in the supreme court; and in cases where the plaintiff shall move for special bail, upon the defendant's appearance the court may, if they think proper, rule him to bail accordingly, or commit him, upon failure, to the custody of the sheriff until bail shall be given; and the person or persons becoming special bail, shall be liable to the judgment and recovery, unless the body of the defendant be rendered in execution in discharge of such bail; *Provided*, that no special bail shall be requirable in any suit brought upon a penal law, unless by such law bail shall expressly be directed to be taken.

X. *And whereas*, heretofore it hath been the law of this State, that upon the return of writs of *capias ad respondendum*, where the defendant or

Process to be
issued by the
clerk, and how
returnable.

Sheriff inte-
rested, coroner
to officiate.

Bail.

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Acts relating to Courts.

Common bail
not liable till
after judgment
against the
principal, &c.

defendants maketh default of appearance, to suffer the plaintiff to suspend the proceedings against such defendant or defendants, and commence original actions against the bail; whereby the costs have been greatly and unnecessarily increased, and the defendants aggrieved; for remedy whereof, *Be it further enacted* by the authority aforesaid, That where any writ shall issue from any court within this State, whether of supreme or inferior jurisdiction, and the defendant shall give bail for his appearance and shall make default, the suit shall be prosecuted to judgment and execution against such defendant, before any proceedings shall be had against the common bail; and if the sheriff shall return upon the execution that the defendant is not to be found, or hath no effects whereon to levy the debt and costs, then the plaintiff may sue forth a *scire facias* against such bail, to shew cause why the execution for the judgment and costs should not issue against him or them; and on such *scire facias* being returned executed, judgment shall be entered up against such bail, and execution go forth as against the original defendant; and if the sheriff shall return in the said writ of *scire facias*, that the defendant or defendants are not to be found in his county, or that he resides in some other, an *alias* shall issue to the sheriff of the county where such defendant resides, who shall execute and return the same to the court of common pleas or county court from whence the same issued; and if an *alias scire facias* shall issue on the general return of *non est inventus*, and the like return shall be made a second time, the plaintiff shall have judgment and execution against the estate and effects of such bail, as if he had been personally served with such writ; *Provided nevertheless*, that nothing herein contained shall be construed to deprive the common bail in such action from appearing and entering himself special bail, at any time before judgment in such action shall be signed.

In case of re-
turn of *non est*
inventus.

XI. And for the better ascertaining the proceedings where the sheriff returns that the defendant is not to be found in his bailiwick, *Be it further enacted* by the authority aforesaid, That where any sheriff shall make such return, the plaintiff or plaintiffs in such action may sue out an attachment against the estate of such defendant, returnable as hereinbefore directed for the returns of original or other subsequent process, or an *alias* or *pluries capias*, at the election of such plaintiff or plaintiffs; and if the sheriff shall return any goods attached, the property of the defendant, the plaintiff shall file his declaration and be entitled to a judgment for his whole debt or damages upon a writ of enquiry; and the goods so attached shall remain in custody of the sheriff, until such judgment be obtained, and shall then, by order of court, be sold and disposed of in the same manner as goods taken in execution upon a writ of *fieri facias*; and if the judgment shall not be satisfied by the goods attached, the plaintiff may have an execution against the body of the defendant, or his effects, for the residue; *Provided always*, that all goods so attached may be replevied by the defendant's giving bond and security to the sheriff, or other officer attaching the same, in like manner as by law is directed in the execution of civil process, or by his appearance and giving special bail, if ruled thereto by the court.

Rules of plead-
ing.

XII. And for the regular determination and prosecution of suits, entering up the judgments, and preservation of the records, *Be it further enacted* by the authority aforesaid, That the following rules and methods shall be observed, to wit:—that the plaintiff in any suit shall file his declaration before or at the first calling of the cause in court, which shall plainly and substantially set forth the cause of action; and no *incipitur* shall be filed or received in lieu thereof; that if the plaintiff fails to file his declaration, or

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to appear and prosecute his suit, upon motion of the defendant, he shall be non-suited; that upon every non-suit, the defendant shall recover five shillings sterling, and costs of suit; that every defendant, upon the return of the process against him, shall appear, by himself or his attorney, and shall put in his plea in writing, which may contain as many several matters as he shall think necessary for his defence; but no demurrer shall be received, unless in the opinion of the court the declaration shall not plainly and sufficiently set forth the cause of action, or that the matter thereof is not actionable; and where the pleas pleaded shall appear to the court to be evasive or defective, insomuch that legal justice cannot be done, upon motion of the plaintiff or his attorney, the defendant shall be ruled to plead a good and sufficient plea, and upon failure, judgment shall be awarded as in case of *nihil dicit*; that any defendant pleading in abatement, (except upon matter appearing of record,) shall be obliged to make affidavit of the truth thereof, before the same shall be admitted; that upon the last day of the court wherein the declaration shall be filed, the defendant, by himself or his attorney, shall put in his plea, which shall be founded on the merits of the cause, and all frivolous or dilatory pleas shall be suppressed by the court, upon motion, at the time such plea shall be tendered, and the defendant ruled to plead substantially instanter, and the plaintiff or his attorney shall, on the same day, join issue on the said plea, which issue shall be tried at the next succeeding court, by a jury, in like manner as issues are tried in the circuit court, on which verdict shall be given, and judgment entered up immediately, unless sufficient cause shall be shewn to the court then sitting, previous to an adjournment to the next court, for granting a new trial, which may be granted once, and not oftener, in the same cause; that in all cases where the issue shall be made up as aforesaid, the cause shall be tried on the next succeeding court, unless where either of the parties shall make oath in open court, that he, she or they hath done every thing in their power to enforce the attendance of witnesses essentially necessary in such trial, and without whose attendance justice cannot be done; in which case the court may, at their discretion, continue the cause over, and refer the issue for trial at the next court; *Provided*, that in all cases where the act of God or the non-attendance of witnesses shall (upon the motion of either of the parties attending and making the same appear to the court in the first calling of the cause, after the same shall be at issue as aforesaid,) render a continuance to the next court necessary, such continuance shall be at the costs of the party praying the same, as also all extraordinary costs which such continuance may occasion to the adverse party; that the clerk of the court do carefully preserve the declarations, pleas, evidences, and all other papers relating to any cause in court, and that they be all filed together in his office; that for preventing errors in entering the orders and judgments of the court, the justices, before any adjournment from day to day, shall cause the minutes of their proceedings to be publicly read by the clerk, and corrected where necessary, and then the same shall be subscribed by the justices then present, which minutes, so taken in a book to be kept for that purpose and subscribed as aforesaid, shall be carefully preserved among the records; and no proceedings or judgments of any court shall be of force or valid, until the same be so read and signed.

XIII. And, for the more speedy recovery of small debts, *Be it enacted*, That the justices of the several counties shall have authority and jurisdiction to hear and determine all suits for any debt or demand due by judgment, specially, or account for any sum or sums of money, amounting to five

Debts not exceeding £5 to

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by sum pro.Mode of pro-
ceeding.

pounds sterling, or for damage not exceeding five pounds sterling, and not under twenty shillings, by petition in a summary way, without the solemnity of a jury; and the said justices are hereby authorized to give judgment and award execution thereon; and where the demand shall not exceed the said last mentioned sum, the plaintiff shall proceed by petition, and not otherwise; and if any plaintiff shall demand a greater sum by action at law, and such action shall appear to the court to have been brought on purpose to evade this Act, he shall be non-suited and pay costs. The method of proceeding by petition shall be as follows, to wit:—the petition shall express whether the debt arises by judgment, bond, note, account, detinue, or trover and conversion, and if otherwise, then by detinue or trover, such specialty or account shall be filed in the clerk's office, with the petition; that upon filing such petition in the clerk's office, a summons of course, shall be issued under the hand of the clerk, returnable to the next court, a copy of which, together with a copy of the petition and account, or specialty, shall be delivered to the defendant, or left at his usual and notorious place of abode, at least ten days before the next succeeding court; and the same being returned executed by the sheriff or his deputy, or oath made of the due service thereof by other indifferent person, if the defendant doth not appear, it shall be lawful for the said court to hear and determine the said petition upon the evidence produced, or to dismiss the same, as to equity and justice shall belong; and if the defendant doth appear, he shall forthwith put in such answer thereunto as will instantly bring the matter in complaint to issue; or if he fails to answer as aforesaid, the court shall proceed to hear and determine the case in a summary way upon the evidence produced, according to justice, law and equity, without regard to form, so as sufficient matter be plainly and clearly set forth, whereupon the court may give judgment according to the right of the cause, in which case, both plaintiff and defendant shall avail themselves of all matters, both in the prosecution and defence, and the same rules of evidence, and all other rules upon trials, shall be observed, as if such cause depended in any of the courts of law within this State; and the court shall not admit of any delay in any suit by petition, unless good cause be shown for such delay or continuance to another court; *provided nevertheless*, that nothing herein contained shall be construed to prohibit actions at common law from being brought, as if this Act had never been made, where the penalty of any bond or other specialty shall be more than the sum to which a petition is herein before limited.

Forfeitures on
penal statutes.

XIV. *And be it further enacted* by the authority aforesaid, That all suits upon any of the penal laws of this State, where the penalty demanded shall not exceed five pounds sterling, shall be by petition and summons as aforesaid, wherein the court shall proceed on the same principles as in petitions for the recovery of debts hereinbefore mentioned, and shall give judgment according to the right of the case; any law, usage or custom to the contrary notwithstanding.

Courts failing
to sit, causes to
be continued.

XV. *And be it further enacted* by the authority aforesaid, That no process depending in any court shall be discontinued for or by reason of the justices failing to hold the court upon the day appointed by law, but in such case, all suits, process, matters and things depending, shall be made to the next succeeding court in course, in the same manner as if such succeeding court had been the same court to which such process stood continued, or such returns or appearances should have been made; and all recognizances, bonds and obligations for appearances, and all returns, shall be of

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the same force and validity for the appearance of any person or persons at such succeeding court, and all summonses for witnesses, as effectual, as if the succeeding court had been expressly mentioned therein; and all causes depending on the docket, and undetermined at any adjournment to the court in course, shall stand continued in the same order, to such court, as fully as if such causes were called over and continued by order of court.

XVI. And for the better discovering the truth in controversies depending in the county courts, *Be it further enacted* by the authority aforesaid, That the clerk of every county court shall, upon the request of either party, issue one or more subpoena or subpoenas for any person or persons to attend as witnesses in any cause or matter depending in the county court, expressing in every subpoena the time and place when the witnesses are to appear, the names of the parties to the suit or cause wherein they are to give evidence, and at whose request they are summoned; and if any witness shall be an inhabitant of another county, the clerk shall issue a subpoena directed to the sheriff of such county where such witness usually resides, which shall be by such officer executed, and returned to the office whence the same issued; and every person summoned to appear as a witness at any court, and being an inhabitant of the same county, shall be paid by the person or persons at whose suit the summons issued, two shillings and six pence lawful money, for every day's attendance on such summons; and all witnesses residing in and summoned out of another county, shall have the same allowance of two shillings and six pence lawful money, and also the sum of two pence per mile for coming to court, and the same for returning, besides ferriages, to be paid by the party summoning such witness, which said several allowances shall be ordered by the court, upon motion, and a copy thereof issued and tested by the clerk at any time upon request; and if any person summoned as aforesaid shall fail to attend accordingly, he or she so failing shall be fined by the court for a contempt, and shall be liable to the action of such party at the common law, for all damages sustained for want of such witness's testimony; but if the person so failing to attend, shall, at the court to which the summons is returnable, or at the next succeeding court, shew cause, satisfactory to the court, of his or her disability to attend at the time he or she ought to have appeared, then no fine or forfeiture shall be incurred by such failure; that every witness, during the time of his or her coming to and returning from court, as well as during his attendance, allowing thirty miles per day for the travelling of such witness, shall be privileged and free from all arrests or imprisonment, and all process whatsoever served or executed on such witness, coming to, attending or returning from such court, shall be void and of none effect, except criminal process for treason, felony or breach of peace, against which no witness shall be entitled to privilege. That if any person whatsoever, summoned as witness, upon his or her appearance before the court, or before commissioners appointed to take his or her examination and deposition, shall refuse to give evidence, on oath, affirmation or otherwise, (as the case may be,) to the best of his or her knowledge, every person so refusing shall be committed to the common goal, there to remain without bail or mainprize, until he or she shall give such evidence. That in any bill of costs, there shall not be allowed the charge of more than three witnesses to the proof of any one particular matter of fact.

Witnesses, how
to be summoned,
&c.

XVII. And to the intent that erroneous proceedings and judgments of the inferior courts of record of this State may be corrected and amended, *Be it further enacted* by the authority aforesaid, That where any person, or

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Appeals.

bodies politic or corporate, shall at any time be aggrieved by the judgment or sentence of any county or other inferior court of record of this State, in any action or suit whatsoever, where the debt or damages or other matter recovered or determined in such action or suit, exclusive of the costs, shall exceed ten pounds lawful money, or the value thereof, it shall be lawful for such party or parties to enter an appeal from such judgment or sentence, to the circuit court of common pleas, and to assign error, in manner following, that is to say:—upon an appeal in any personal action or suit, where the judgment or sentence shall not exceed fifty pounds lawful money, the appellant shall assign error in matter of right only, and if, upon the hearing in the circuit court, such judgment or sentence shall appear to be just, according to the right of the cause, the same shall be affirmed, notwithstanding any mispleading in matter of form; and where the judgment or sentence in any personal action, information or controversy, shall be of greater value than fifty pounds lawful money, the appellant may assign any errors of form or substance; that where the defendant in any personal or mixed action shall appeal, and upon trial the judgment or sentence is affirmed, the damages to the appellant shall be seven pounds per centum upon the principal sum and costs recovered in the county or inferior courts; and where the plaintiff appeals and the judgment or sentence shall be affirmed, the appellant shall pay to the appellee five pounds lawful money, besides all costs accruing on such appeal; and that no appeal shall be valid, nor any writ of *supersedeas* granted or allowed for reversing any judgment or sentence in any county or other inferior court in any action, suit or controversy whatsoever, where the debt, damage, or other matter recovered, shall be of less value than ten pounds lawful money; nor shall any appeal be granted or writ of error or *supersedeas* be issued, granted or allowed, until the final decision of such action or controversy shall be made in the county or other inferior court; that where the defendant appeals from the judgment or sentence of the county or other inferior court, he shall give bond with good security for prosecuting the appeal with effect, and to pay all costs and damages awarded to the appellee, if the judgment of the county or other inferior court shall be affirmed; and where the plaintiff shall appeal, then the special bail given by the defendant in the county or other inferior court, shall stand bound to answer the judgment of the circuit court, or render in execution the body of his principal; and such appellant shall also give bond with sufficient security, in the sum of fifteen pounds lawful money, to prosecute the appeal with effect, which bond shall be made payable to the appellee, conditioned as aforesaid, and upon failing to appear and prosecute such appeal, according to the condition, such bond shall be forfeited and enure to the appellee.

Writ of *supersedeas*.

XVIII. And to the end that all writs of *supersedeas* may be regularly obtained and issued, *Be it further enacted* by the authority aforesaid, That the party praying such writ, shall petition some one judge of the circuit court of common pleas, and assign error, and some attorney practising in such court, shall certify under his hand, that in his opinion, sufficient matter of error is set forth or shewn by the petitioner, and thereupon, such judge may order such writ to be issued by the clerk of the court of common pleas, or may reject the petition, if such judge shall think fit; and upon granting any such writ, and before issuing thereof by the clerk, such petitioner shall give bond and security in the clerk's office, which bond shall be under the like penalties and conditions, and the parties subject to payment of the like damages and costs, as in cases of appeal; and if upon

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trial of any appeal or *supersedeas*, the judgment or sentence of any county court, or other inferior court, shall be reversed, the circuit court shall enter such judgment thereupon as should have been entered or made in the court below; *Provided always*, that ten days notice be given to the adverse party, of an application for the writ of *supersedeas*.

XIX. And for settling a method of obtaining writs of *certiorari*, to remove civil causes from the county or other inferior courts into the circuit court, *Be it further enacted* by the authority aforesaid, That the party desiring a writ of *certiorari*, shall apply by petition to one of the judges of the circuit court, setting forth the reasons of his or her desiring such writ, and shall make oath before a magistrate to the truth of the allegations of such petition, and then such judge may, under his hand, order or award such writ to the party praying the same, or may refuse such writ, according as the matter shall appear to him just and necessary, or not; and the clerk of the circuit court shall issue such writ, if ordered as aforesaid, and shall carefully file such petition and affidavit in the office, and shall also take bond from the petitioner in such penalty as shall be directed by the judge ordering and awarding such writ, payable to the adverse party, with one or more sufficient surities, for satisfying and paying all such sum or sums of money, with costs, as shall be adjudged to the adverse party in the case to be removed; and that no writ of *certiorari* whatsoever shall be granted where the matter in dispute shall not be originally cognizable in the circuit court; and when any cause be removed by any such writ, and after the same cause shall be remanded by a writ of *procedendo*, such cause shall never afterwards be removed or stayed before judgment in the inferior court, by any writ whatsoever to be sued forth from the circuit court; and to prevent the obtaining any writ of *certiorari* by surprize, the party praying such writ in any civil cause, shall give notice to the adverse party, of the time and place of his moving for such writ, at least ten days before such motion, and no such writ shall at any time be granted without producing an affidavit of such notice.

XX. *And be it further enacted* by the authority aforesaid, That where any person shall be committed, in any civil action, to the prison of any county or other inferior court, for any cause or matter cognizable in the circuit court, it shall and may be lawful for such person to sue out a writ of *habeas corpus cum causa*, to remove the body of such person to the public gaol of the circuit court; and the cause of such commitment shall be certified to the circuit court by the sheriff of the county where such person shall be imprisoned; and the clerk of the circuit court is hereby authorized and required, upon application of any such person, to issue such writ accordingly.

XXI. *And be it further enacted* by the authority aforesaid, That all errors of form in any of the proceedings carried on in the county courts, or brought up to the circuit courts by appeal, *supersedeas* or *certiorari*, where such error shall evidently appear to be a clerical mistake or inattention, and not the effect of design or ill judgment, the same shall be amended instantly, upon motion, without costs.

XXII. *And be it further enacted* by the authority aforesaid, That the clerks of the several county courts within this State, shall be appointed by a majority of the justices of the said county courts, respectively, and shall hold their offices during good behaviour, and moreover, shall enter into bond, with three good and sufficient surities, in the sum of one thousand pounds lawful money, for the well and faithful discharge of their duty,

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which bond shall be made payable to the treasurers of the State for the time being, and shall be recorded in the county court where such clerk shall be appointed to act, and shall be deposited in the treasury; and in case any clerk of any county court shall be guilty of such malpractice in the execution of his trust as shall render his continuance in office injurious to the community, the justices of the said county courts, respectively, are hereby authorized to remove such clerk for such malpractice; and such clerk, with his surities, shall be liable to all damages sustained by any person or persons, in consequence of any malpractices committed by such clerk; *provided*, that no person shall be eligible to the said office, unless he shall have resided in the State one year immediately preceding his election to the said office.

Clerks to provide record books, &c.

XXIII. *And be it further enacted* by the authority aforesaid, That the clerks of the several county courts shall provide and keep, at their own expense, all necessary record books for the proceedings of the county courts, and shall make a fair record of such proceedings, together with all such other papers appointed by law to be by them recorded; and the justices presiding in the several county courts shall annually appoint two fit persons of their number to inspect the clerk's office of their county, and to report to the next court the condition in which they find the papers and records.

Clerk's fees.

XXIV. *And be it further enacted* by the authority aforesaid, That the said clerks of the county courts shall be intitled to take and receive the several fees herein to be allowed them by the table of fees for the several services therein mentioned to be by them done and performed, and no more; and if any clerk shall presume to take or receive any greater or other fees than are allowed by the said table of fees, he shall forfeit and pay four times the amount of such illegal and extorted fees, one moiety thereof to the justices of the county court wherein he shall act, for the use of such county, the other to such person who shall be aggrieved; which said suit shall be by motion in the county court, such clerk having ten days previous notice given him; which court is hereby authorized to hear and determine such motion, and, upon conviction, to award judgment and execution for the penalty without delay.

How they are to be collected.

XXV. *And be it further enacted* by the authority aforesaid, That the clerks of the several county courts shall keep a fee book, and charge therein, to the several suitors and others transacting business in the said county courts, the several fees allowed by law, and shall, in the first week, or seven days, of the months January and July, deliver to the sheriff of the county, fair and correct accounts of such fees, wrote in a plain hand, with the several charges, (except the amount of the several sums, which may be made in numerical figures,) in words at full length, against the several persons owing such fees; and such sheriff is hereby authorized and directed to collect such fees within three months thereafter, and pay the same to such clerk; and if any person shall delay or refuse to pay such fees to the sheriff when demanded, such sheriff shall have full power to levy the same, by distress upon the goods and chattels of such person, and shall sell the same, giving ten days public notice of such sale, for ready cash; and no replevin or other obstruction to such sale shall be allowed or admitted; and such sheriff shall be allowed the sum of five per centum for commissions on such collection.

XXVI. *And be it further enacted* by the authority aforesaid, That any county court clerk shall have full power and authority to appoint a deputy

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to transact or perform the business of his said office, in his absence or indisposition, and shall be answerable for the conduct of such deputy, which deputy shall take the same oath as is prescribed to be taken by the clerk, in open court, previous to his acting under such deputation; and all such clerks or deputy clerks, shall, in open court, at the time of their entering upon the execution of their respective offices, produce the commission of their appointment, which shall be recorded, and shall take the following oath, that is to say:

The Oath of a County Clerk, or his Deputy.

“I, A B, do solemnly promise and swear, (or affirm, as the case may be,) that I will well and faithfully do and perform the several duties enjoined me by law, as clerk, or deputy clerk, of the county court of C, according to the best of my knowledge and ability; that I will make and keep a true and perfect entry and record of all orders and proceedings of the said court, without fraud or deceit; and that I will not take or receive any greater or other fees than such as are allowed by law. So help me God.”

Oath of Clerk.

XXVII. And for the better regulation of the office of sheriff in the several counties of this State, *Be it enacted* by the authority aforesaid, That the justices presiding in the several counties, shall, on the court of every county which shall be first held, elect a sheriff for the county, and the clerk shall enter and record such election, and give a certified copy thereof to the person elected, who shall be commissioned by the Governor or Commander-in-chief for the time being, and shall hold his office upon the same terms and conditions as the sheriffs appointed for the several districts in this State: And every such sheriff, previous to his entering into office, shall give bond, at the first court held for the county after his appointment, with two good and sufficient surities, in the sum of one thousand five hundred pounds lawful money, for the faithful discharge of his trust, which bond the said justices are hereby impowered to take, payable to the treasurers of this State for the time being, conditioned as aforesaid, which bond shall be transmitted to the said treasurers; and on such sheriff's producing his commission in open court of the county for which he is appointed sheriff, he shall thereupon be admitted, and required to take the oaths of allegiance, together with the oath of office hereinafter mentioned; which said commission and qualification as aforesaid shall be entered and recorded in the said county court; and if any person shall take upon himself to act in the said office of sheriff, without being duly qualified as this law directs, he shall forfeit and pay the sum of two hundred pounds lawful money, to be recovered by any informer who shall sue for the same, and shall forever be disabled from holding any place of trust within this State.

Sheriff, how to be appointed.

XXVIII. *And be it further enacted* by the authority aforesaid, That any sheriff of a county shall and may have full power and authority to appoint an under-sheriff, with the approbation of the justices, for whose conduct in office he shall, nevertheless, be responsible; and such under-sheriff, during the sickness or other necessary absence of the sheriff, shall have equal power and authority, and be subject to the same coercive jurisdiction of the court, as if he was sheriff of the same; and such sheriff shall also have full power to appoint one or more deputy or deputies, with the approbation of the court, to assist in executing process, making collections, or other services, for whose conduct in office he shall be responsible; and such sheriff, under-sheriff, and deputy, shall, in open court, before either of them shall act as sheriff, take the following oath, to wit:

Under sheriff, and deputy.

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*Acts relating to Courts.**Oath of Sheriff.*

Oath of sheriff. "I, A B, do solemnly promise and swear, (or affirm, as the case may be,) that I will well and faithfully serve the State of South Carolina in the office of sheriff, under-sheriff, or deputy, of the county of C, according to the best of my skill and ability; that I will do equal right to all persons, high and low, rich and poor, without malice, favour or affection; that I will well and truly execute all process to me directed, according to law, and that I will not take or receive any other or greater fees than is allowed by law. So help me God."

Sheriff dying
or removing.

XXIX. *And be it further enacted* by the authority aforesaid, That if any sheriff appointed as aforesaid shall happen to die in the time of his sheriffalty, or shall remove in order to reside out of the county where such sheriff shall be appointed, the county court, at the first meeting thereafter, may and shall appoint some other fit and proper person to be sheriff in his room; and until such appointment shall be made, the coroner shall exercise the office of sheriff, in as full and ample manner as such sheriff might or could do.

Penalty for re-
fusing to serve.

XXX. *And be it further enacted* by the authority aforesaid, That if any person hereafter elected sheriff, in pursuance of this Act, shall refuse to accept and execute such commission, or fail to qualify himself as this Act directs, he shall forfeit and pay twenty-five pounds sterling to the justices of the court by whom such person shall be nominated, for the use of their county, except the person refusing shall declare, upon oath, in his county court, that he hath used his best endeavors, truly and bona fide, without covin or collusion, to get security for the performance of the said office, and that he cannot obtain such security, which oath the justices are directed to administer, and cause to be recorded, and thereupon, such person shall not be liable to any forfeiture for his refusal as aforesaid; and no person who hath once served as sheriff, or paid his fine, shall be liable to any further forfeiture.

Duties of
sheriff.

XXXI. *And be it further enacted* by the authority aforesaid, That every sheriff himself, or by his under-sheriff or deputies, shall from time to time execute all writs and other process to him legally issued and directed within his county, or on any bay, river or creek adjoining thereto, and shall make due return thereof, under the penalty of forfeiting the sum of five pounds lawful money, for every failure, one moiety thereof to the justices of the court, for the use of their county, the other moiety to him or her who shall inform and sue for the same, and shall moreover be liable to the party aggrieved, by action at the common law, for damages; and for any false return made by the sheriff, his under-sheriff, or deputies, such person so making such false return shall be dismissed from his office by the justices, and shall moreover forfeit the sum of ten pounds lawful money, to be recovered and divided as above mentioned, and be liable in damages to the party aggrieved by such return; and no sheriff, or his officers, shall return on any writ or process to him directed, that the defendant is not to be found within his county, unless such sheriff or other officer shall have actually been at the dwelling house or usual place of abode of the person against whom such writ or process may be, and not finding him, shall there have left an attested copy of the same writ or process, which said copy left shall be sufficient to ground the proceedings against such defendant, where bail is not required by the plaintiff; and where the defendant shall be a known inhabitant of another county, the sheriff shall return the truth of the case, upon which return the writ or process shall be dismissed;

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provided always, that it shall not be lawful for any sheriff or other officer to execute any writ or other process on the Sabbath day, nor upon any person attending his duty at any muster of the militia, or any election of member or members to serve in the General Assembly; and all process so executed, shall be void, unless the same shall be issued against any person or persons, for treason, sedition, felony, riot, or breach of the peace, on behalf of the State, or upon any escape out of prison or custody; and such process shall and may be executed at any other time or place.

XXXII. *And be it further enacted* by the authority aforesaid, That if any person or persons shall be indebted for taxes, levies, clerk's or sheriff's fees, or other monies, for the collecting of which the goods and chattels of the debtor are by law liable to distress, and such monies not be paid when the same shall be due and payable, it shall be lawful for the sheriff or his officers to distrain any of the personal property of the debtor; and if the owner thereof shall not, within six days after such distress made, pay the monies lawfully due and owing, such sheriff or his officers may lawfully sell by auction, all, or so much of the personal estates distrained, as shall be sufficient to satisfy the said fees, or other legal demands of the sheriff; but shall give public notice, in writing, posted up at the door of the court house of the county where such distress shall be made, which sale shall not be in less than five or more than ten days after notice so given, and shall thereon be good and effectual in law; *provided always*, that no sheriff or other officer shall, at any time, in collecting taxes, levies or officer's fees, make any unreasonable seizures or distresses, or distrain any slave, if other sufficient distress can be found, upon penalty of being liable to the party aggrieved, for his damages.

XXXIII. *And be it further enacted* by the authority aforesaid, That no judgment shall be entered against any sheriff or other officer, in any suit brought on the escape of any debtor or prisoner in his or their custody, unless the jury who shall try the issue shall expressly find that such debtor or prisoner did escape with the consent or through the negligence of such sheriff or his officer, or that such prisoner might have been re-taken, but that immediate pursuit was neglected.

XXXIV. *And, for the more effectual re-taking and securing persons who escape out of prison, Be it enacted* by the authority aforesaid, That if any person committed or charged in custody in execution, mesne process, or warrant of commitment, to any county prison, shall thence escape, it shall and may be lawful for any justice of the peace of the county where such prisoner was confined, upon oath of such escape before him made, by the sheriff or his officers, or by the goaler of such prison, to grant to them, or any one of them, one or more warrant or warrants, under his hand, to all sheriffs and constables within the State, reciting the cause of such prisoner's commitment, and time of escape, as aforesaid, and commanding them, and every of them, in their respective counties, cities and towns, to seize and re-take such prisoner going at large, and being so re-taken, forthwith to convey and commit to the prison where prisoners are usually kept in the county where such re-taking shall be, there to be kept in safe custody until he or she can be safely removed to the county where such prisoner had, at the time of escaping, as aforesaid, been imprisoned; and the sheriff or other officer so retaking such prisoner shall, and is hereby required to, convey, as soon as possible, the prisoner so re-taken, to the goal of the county whence such person had escaped, unless the justices where such prisoner shall be re-taken, shall order his further detention; and where any

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Sheriff may
impress a
guard.

person or persons accused of treason, or sedition, felony, or other capital offence, shall be committed to any goal, and the sheriff or his under-sheriff shall have cause to suspect such person may be rescued, will attempt, and will probably effect, his escape, such sheriff shall and may impress a sufficient guard for securing such prisoner so long as such prisoner or prisoners continue in goal, at the charge of, and to be levied on, the said county, to be re-paid by the public; and all persons summoned on impress, as aforesaid, who shall refuse or neglect to obey such sheriff, in keeping guard, as aforesaid, every such person, without giving lawful excuse to the satisfaction of the justices, at the succeeding court, shall forfeit and pay two pounds, lawful money, for every twenty-four hours such person shall refuse or neglect to keep guard, as aforesaid, and shall, moreover, be imprisoned by the said court, for his contempt of lawful authority, for any time not exceeding two months; the fine, upon trial and conviction, to be paid to the order of the said county court, for the use of their county.

Succeeding
sheriff to fin-
ish the col-
lections of his
predecessor.

And where taxes, county levies, or officers' fees, shall remain uncollected upon the death or removal of any sheriff, his successor shall have the power to collect, distrain for, receive and pay the same, as the sheriff into whose hands they were originally put, might or could do; and such succeeding sheriff shall forthwith take possession of all books and papers belonging to the office of such deceased or removed sheriff, except such books as contain the fees and debts due to such sheriff, or his own private property, which shall remain subject to his own disposal; and every sheriff shall have and retain for all public debts and demands, or officer's fees, by him collected, an allowance of five pounds per centum for his commission therein; and where any person hath been retained in prison for the space of twenty days, the sheriff of the county shall have a right to security, if required, from the person, or his attorney, at whose instance such person shall be imprisoned, for the maintenance of such prisoner; and if such person, or his attorney, shall refuse to give such security, where personally demanded by the sheriff, his under-sheriff or deputy, such prisoner may be discharged.

Defaulting she-
riff to be pro-
ceeded against.

And wherever the sheriff shall have collected any monies due to the public, by taxes, fines, forfeitures, or any fees due to officers of the courts of justice, or any monies levied by the execution of judgments of any of the said courts, and shall neglect or refuse to pay the same to the respective persons authorized and entitled to receive the same, such sheriff and his securities may be proceeded against, by motion, either in the circuit court or county court, (having jurisdiction,) by the party aggrieved, giving such sheriff ten days previous notice, in writing; and if judgment shall be given against such sheriff upon trial, an execution for the same, with costs, shall issue against either his body or effects, and those of his securities; and if any such arrears shall be due on the death or removal from office of any such sheriff, his executors, administrators and securities, and their executors, administrators and securities, shall be proceeded against in the same manner, and have the same benefit of defence and relief, as if such sheriff was personally present.

Execution,
how to be sued
out.

XXXV. And *whereas*, it is just and necessary that all persons recovering any debt, damages or costs, by judgment of any county or other inferior court, shall have speedy satisfaction therein; *Be it therefore enacted* by the authority aforesaid, That all persons obtaining judgment in any court, for any debt, damage or costs, such persons may, at their option, sue forth writs of *fieri facias* or *capias ad satisfaciendum*, within twelve months from the time of obtaining such judgments, against the lands, goods and chattels

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or body of the defendant ; and all such writs shall be issued by the clerk of the county court, and shall bear test and be signed by him, or his lawful deputy, in his name, and shall be returnable to the next succeeding court ; provided there be always thirty days between the test and return of each and every such writ or writs of execution. But if the plaintiff in any county court, or other inferior court, shall desire an execution to issue, returnable to a future day, the clerk shall issue the same accordingly, so as the day of such return be upon a court day, within ninety days next after the test thereof ; and the forms of such writs shall be as follows, *mutatis mutandis*, to wit :

A Fieri Facias in Debt.

STATE OF SOUTH CAROLINA,

M—— county, to wit : To the sheriff of N—— county, greeting : We command you, that of the goods and chattels, lands and tenements, of A B, late in your county, you cause to be made the sum of ——, which C D, lately in our county court of M——, hath recovered against him for debt ; also, the sum of ——, which to the said C D, in the same court, was adjudged for his damages, as well by reason of detaining the said debt, as for his costs in that suit expended, whereof he is convicted, as appears to us of record ; and that you have the said several sums of money before the justices of our said court, the —— day of ——, to render to the said C D the debt and damages aforesaid ; and have then there this writ. Witness, E F, clerk of our said county court, the —— day of ——, in the year of our Lord one thousand seven hundred and ——, and of the independence of the United States of North America, the ——.

Forms of execution.

*E F, clerk of the court.**The same in case on Promises and Assumptions :*

—— As before, to ——, for his damages which he sustained, as well by reason of his not performing certain promises and assumptions to the said C D, by the said A B lately made, as for his costs by him about his suit in this behalf expended, &c.

In Trespass.

—— As before, to ——, for damages, as well by occasion of a certain trespass (or trespasses,) to the said C D, by the said A B, committed and done, as for his costs by him about his suit in this behalf expended, &c.

If on Judgment for defendant, say,

For his costs about his defence in a certain action brought against the said C D, by the said A B.

In Covenant :

—— As before, to ——, for his damages and so forth, by occasion of the breach of a certain covenant between the said A B and the said C D, lately made, &c.

A Capias ad Satisfaciendum in Debt :

—— As before, to ——, greeting : We command you, that you take the body of C D, late of your county, if he be found therein, and him safely keep, so that you have his body before the justices of our county court of M——, on the —— day of ——, to satisfy A B, the sum of ——, which the said A B, in our said court, hath recovered against him for debt ; also, —— which to the said A B, at the same time, was adjudged, &c., as in *feri facias*.

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*Acts relating to Courts.**Trespass on the Case :*

In trespass, detainue, trover, assault and battery, in the terms of the judgment as in the *feri facias* preceding.

Which said writs, so issued, shall be executed by the sheriff or other officer to whom the same shall be directed, and shall be returned on the back thereof, according to the several forms hereafter following, to wit :

Return of Fieri Facias :

By virtue of this writ, to me directed, I have caused to be made the within mentioned sum of ———, of the lands and tenements, or goods and chattels, (as the case may be,) of the within named A B ; which said sum of ———, before the justices within mentioned, at the day and place within contained, as by this writ I am commanded.

P T, sheriff of M——.

Or,

The within named A B, hath not any lands, tenements, goods or chattels, within my county, whereof I can make the debt and damages within mentioned :

Or,

By virtue, &c., I have caused to be made of the lands, tenements, goods and chattels, of the within named A B, the sum of ———, which I have ready to render to the within named C D, in part of the debt and damages within mentioned ; and I do further certify that the said A B hath no more lands, tenements, goods or chattels, within my county, whereof I can at present make the residue of the said debt and damages, as by the said writ I am required, &c.

Return of Capias ad Satisfaciendum,

By virtue of this writ, to me directed, I have taken the within named A B, whose body before the justices within named, at the day and place within contained, I have ready to satisfy C D his debt and damages within mentioned, as within I am commanded.

Or,

The within named A B, is not found within my county, &c.

XXXVI. And in case any person shall obstinately choose to live and die in prison, rather than to make due satisfaction to his creditors, *Be it enacted* by the authority aforesaid, That the party or parties at whose suit or to whom any person shall stand charged in execution for any debt or damages recovered, his or their executors or administrators, may, after the death of the person so dying in execution, lawfully sue forth and have new execution against the lands and tenements, goods and chattels, or any of them, of the person so deceased.

XXXVII. And for the better direction of clerks in the issuing executions, *Be it further enacted*, by the authority aforesaid, That when any writ of execution shall issue, and the party at whose suit the same is issued shall afterwards desire to take out another writ of execution, the clerks may issue the same, if the first be not returned executed ; and where, upon a *capias ad satisfaciendum*, the sheriff shall return that the defendant is not to be found, the clerk may issue a *feri facias* ; and if upon a *feri facias*, the sheriff shall return that the party hath no goods, or that only part of the debt is levied, in such case it shall be lawful to issue a *capias ad satisfaciendum* upon the same judgment ; and where one judgment shall be ob-

Forms of re-
turn.

In case a debt-
or die in prison.

A second exe-
cution may is-
sue, when the
first was not
executed, &c.

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tained against several defendants, execution therein shall issue as if it were against one defendant, and not otherwise.

And no writ of *fiery facias*, or other writ of execution, shall bind the property of the estate, real and personal, against which such writ is sued forth, but from the time that such writ shall be delivered to the sheriff or other officer, to be executed; and such sheriff or other officer shall, upon the receipt of such writ, endorse upon the back of the same the day of the month and year when he received the same; and if two or more such writs shall be delivered against the same person, that which was first delivered shall be first satisfied.

Fieri facias,
when to take
effect.

And when any sheriff or other officer shall take the lands, tenements, goods and chattels, of any person whatsoever, by virtue of any writ of *fiery facias*, and the owner of such lands, tenements, goods and chattels, shall not, within five days after such taking, satisfy the party suing out such writ, his debt, damages and costs, such sheriff or officer shall and may sell, by auction, the lands, tenements, goods and chattels so taken, or so much thereof as shall be sufficient to satisfy the judgment, for the best price that can be got for the same, but shall give public notice of the time and place of such sale, by advertisement, at the door of the court house of such county, at least ten days previous to such sale, and not more than fifteen; and where any lands or tenements shall be taken in execution, notice shall be given by advertisement, in the same manner, describing, as correctly as possible, the quantity, quality and improvements of such lands, at least twenty-five days from the levying the execution thereon, and not more than thirty before the sale of such lands shall be made; and all purchases of lands and tenements, or goods and chattels, and conveyance or delivery of the same to such purchaser, shall pass a good and valid right, an estate in fee simple, to the same purchaser, his heirs and assigns forever: *Provided always*, that if the owner of any lands, tenements, goods and chattels, shall give sufficient bond and security to such sheriff or other officer, to have the same lands, tenements, goods and chattels forthcoming at the time appointed for selling the same, it shall be lawful for the sheriff or other officer to accept such bond and security, and to suffer the said lands, tenements, goods and chattels to remain in the possession and at the risque of such debtor, until the time aforesaid, when such lands, tenements, goods and chattels shall be sold, as aforesaid, unless the monies for which the same were seized shall be previously paid.

Property taken
in execution,
how to be sold.

And no lands or tenements, or slaves, shall be taken in execution or distrained for taxes, levies or officers's fees, where other goods and chattels are shewn by the defendant or debtor to the sheriff or other officer, sufficient to satisfy the demands of such sheriff or other officer. And if the goods taken by any sheriff or other officer, or any part thereof, shall remain in his hands for want of buyers, he shall make return accordingly, and thereupon the writ of *venditioni exponas* shall issue to such sheriff, directed in the following form, (to wit:)

Lands and
slaves exempt,
if other property
is shewn.

STATE OF SOUTH CAROLINA,

M—— county, to wit, &c: greeting: we command you that you expose to sale those goods and chattels, lands and tenements, of A B, to the value of ——, which, according to our command, you have taken into your hands, and which you detain for want of buyers, as you have returned to our justices of our county court of ——, to satisfy C D, the sum of ——, whereof in our said court he hath recovered judgment and execution against the said A B; and that you have the said monies, &c., as in *eri facias* for debt.

writ of *ven-*
ditioni exponas.

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Execution may
issue into any
county where
debtor may re-
move.

XXXVIII. *And be it further enacted* by the authority aforesaid, That where judgment shall be obtained in any county court for any debt or damages, and the person against whom such judgment shall be obtained shall remove with his or her effects, or shall reside out of the limits of the jurisdiction of such court, it shall be lawful for the clerk of the court where such judgment was given, at the request of the plaintiff or defendant obtaining such judgment, to issue the writ of *fieri facias* or *capias ad satisfaciendum*, in the form and under the test hereinbefore prescribed, directed to the sheriff of any county within the State, wherein the defendant or debtor, or his lands, tenements, goods and chattels, shall be found; which said sheriff, or his lawful officer, is hereby empowered to serve and execute the same, and shall make return thereof to the court where the judgment was given, in the same manner as the executions served and returnable within the county are directed.

Insolvent
debtors.

XXXIX. And, for the relief of insolvent debtors who shall be taken in execution, and to prevent the long imprisonment of unfortunate people, to the injury rather than advantage of creditors, *Be it enacted* by the authority aforesaid, That if any person or persons shall be taken or charged in execution, and remain in goal for the space of twenty days, shall, at the first court thereafter happening, on his or her petition to the said court to be admitted to the benefit of this Act, be brought into court, by order thereof to the sheriff or goaler in whose custody such person shall be; and such sheriff shall also, at the same time, deliver into the hands of the clerk of the said court, a list of the several executions with which he or she stands charged in goal; and upon such insolvent debtor's so appearing, and having given to the person or his attorney ten days previous notice of his design to deliver his estate and become insolvent, he or she shall be admitted in open court to subscribe and deliver in a schedule of the whole estate, and shall make oath in the following words, to wit:

Oath.

I, A B, do solemnly promise and swear, (or affirm, as the case may be,) in the presence of Almighty God, that the schedule now delivered, and by me subscribed, doth contain, to the best of my knowledge, a full, just and true account and discovery of all the real and personal estate unto me any ways belonging, and such debts as are to me owing, or to any person in trust for me, and of all securities and contracts whereby any money may hereafter become payable to me; and that I have not, nor hath any other person in trust for me, any land, money, stock or other estate, real or personal, in possession, reversion or remainder; and that I have not, either directly or indirectly, sold, lessened, or otherwise disposed of in trust, or concealed, all or any part of my lands, money, goods, stock, debts, securities, contracts, or other estate, whereby to secure the same, to receive or expect any profit or advantage thereof, or to defraud or deceive any creditor or creditors to whom I am indebted, in any wise whatsoever. So help me God.

Goods to be
sold by *vendi-
tioni exponas*.

Which said schedule, so subscribed or acknowledged in presence of the justices, in open court, shall remain with [the] clerk of the said court, for the instruction and information of the creditors of such insolvent debtor; and a *venditioni exponas* shall issue for the sale of such lands or effects, directed to the sheriff of the county or counties wherein such schedule shall be lodged, or lands or other effects can be found, who shall thereupon act as in cases of *fieri facias*, where there has been seizure and sale; and such other order shall be made by the court, concerning the debts, contracts or securities of such insolvent debtor, in the discretion of the said

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court, so as to entitle the plaintiff or creditor to the full benefit thereof.

And that after delivering in such schedule, and taking such oath, as aforesaid, it shall be lawful for the justices of the said courts, by their order, to command the sheriff or goaler forthwith to set at liberty such prisoner; which order shall indemnify such sheriff or goaler for such discharge.

And if any person admitted to the benefit of this Act shall be convicted of having concealed his estate and his effects, or rendered a false schedule thereof, with intent to defraud his creditors, every such person, upon conviction, shall suffer as in cases of wilful and corrupt perjury. Punishment for false schedule.

And where any person shall be taken in execution, or other process, and from inability to pay the debt and damages, or find bail, in any civil action, if committed to goal, and such person hath no lands, tenements, goods or chattels, whereby his maintenance in goal can be defrayed, the plaintiff, or person at whose instance such person shall be imprisoned, shall pay and satisfy the same: and if such person, or his attorney, shall refuse, on notice given as is hereinbefore directed, to pay or give security to pay the same when demanded, such prisoner shall be freed and discharged from his confinement. Plaintiff liable for support of debtor in goal.

XL. And, for the relief of the citizens of this State against causeless and vexatious suits, and for the better enabling them to recover their just rights, *Be it further enacted* by the authority aforesaid, That in all actions of assault and battery, commenced and prosecuted in the county court, if the jury find under two pounds, lawful money, the plaintiff shall not recover his costs. Assault and battery.

And in all actions of trespass *vi et armis*, (unless the court shall be of opinion, and shall order such opinion to be entered in record, that such trespass was wilful and malicious,) if the jury find under forty shillings, the plaintiff shall not recover more costs than damages, and if more costs are awarded or taxed against the defendant, the judgment shall be void; and in case more costs should be levied upon him, as to such costs the court shall grant redress, upon motion for that purpose. Trespass *vi et armis*.

And where several persons shall be made defendants in any action of trespass *vi et armis*, assault and battery, slander, or false imprisonment, and, upon trial thereof, any one or more of them shall be acquitted by verdict, every defendant so acquitted shall have and recover his or their costs of suit, in like manner as if a verdict had been given against the plaintiff or plaintiffs generally, in favor of all the defendants; unless the court, at the time of trying such action, shall be of opinion there was reasonable cause for making such person or persons defendant or defendants thereto, and shall so order; and in all cases where judgment shall be given for the defendant, he shall recover his costs against the plaintiff, and have execution for the same. In case of several defendants.

XLI. *And be it further enacted* by the authority aforesaid, That in all actions brought in the county courts where the plaintiff shall die after an interlocutory judgment, and before final judgment obtained therein, such action shall not abate, if the same might be originally prosecuted or maintained by the executors or administrators of such plaintiff; and if the defendant shall die after such interlocutory and before final judgment, such action shall not abate, if the same were originally maintainable against the executors or administrators of such defendant, but the plaintiff, (or if he be dead after such interlocutory judgment, his executors and administrators,) shall and may have a *sciri facias* against the defendant, if living, after such interlocutory judgment, (or if he died after, against his executors or In case of death of party pending suit.

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administrators,) to shew cause why damages in such action should not be assessed and recovered by the plaintiff or plaintiffs; and if such defendant, or his executors or administrators, shall appear at the return of such writ, and not shew or alledge a sufficient cause to arrest the final judgment, or being returned executed, or upon two writs of *scire facias* it be returned that the defendant, or his executors or administrators, had nothing whereby to be summoned, or could not be found in the county, shall make a default, a writ of enquiry of damages shall thereupon be awarded, which being executed, judgment final shall be given for the said plaintiff, his executors or administrators, prosecuting such writ of *scire facias* against such defendant, his executors or administrators; and if there be two or more plaintiffs or defendants, and one or more of them should die, if the cause of action should survive to the surviving plaintiff or plaintiffs, or against the surviving defendant or defendants, the action shall proceed; and in all actions in any of the courts in this State, if either party shall die between verdict and judgment, there shall be no abatement of such action, but the same shall proceed as if both parties were living.

XLII. *And be it further enacted* by the authority aforesaid, That all powers of attorney for confessing or suffering judgment to pass by default, or otherwise, and all general releases of error, made or to be made, by any person or persons whatsoever, within this State, before action brought, shall be, and are hereby declared to be, absolutely null and void; and if any attorney shall appear to confess judgment for any defendant in any court of record within this State, in consequence thereof, such attorney, for every such offence, shall forfeit and pay the sum of ten pounds, lawful money, to be recovered by any person who will inform and sue for the same, and shall, moreover, be liable to an action for damages, at the suit of the party aggrieved.

XLIII. *And be it further enacted* by the authority aforesaid, That when any process shall be sued forth and prosecuted in any county court, or before any justice of the peace, by virtue of any letter or warrant of attorney, or letter or warrant of substitution, from any person or persons residing out of this State, against any person or persons inhabiting here, the person suing forth such process, or prosecuting such suit, at his first appearance, or any time thereafter when required, shall, upon motion, be ruled to give sufficient security to the defendant for all costs accruing in such action or other suit, before a magistrate; and if such attorney shall fail to give such security, being thereunto required, the suit shall be dismissed, and the defendant shall have judgment, and may sue forth execution against such attorney for such costs.

XLIV. *And be it further enacted* by the authority aforesaid, That all judgments, bonds, bills, promissory notes, or other writing, with or without seal, where the debt or demand is liquidated, and signed with the hand of the debtor, such writing shall constitute specialty for such debt, and all suits to be commenced thereon in the county courts shall be by action of debt; any law, custom or usage to the contrary notwithstanding.

XLV. *And whereas*, it is necessary to settle the mode of proving and recording deeds and other conveyances in the several counties of this State, for preventing frauds; *Be it further enacted* by the authority aforesaid, That no conveyance of lands, tenements or hereditaments, within this State, shall pass, alter or change from one person or persons to another, any estate of inheritance in fee simple, or any estate for life or lives, nor shall any greater or higher estate be made or take effect in any person or

Power of attorney for confessing judgment, &c.

Plaintiff out of the State to give security for costs.

Notes of hand, &c., to be specialty.

Deeds, how to be proved and recorded.

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persons, or any use thereof, to be made by bargain or sale, lease and release, or other instrument, unless the same be made in writing, signed, sealed, and recorded in the clerk's office of the county where the land mentioned to be passed or granted shall lie, in manner following, that is to say:—if the person or persons who shall make and seal such instrument of writing, shall be resident within the State at the time of making, signing and sealing the same, then the recording thereof shall be within six months from the signing, sealing and delivery, and if the person or persons so making, signing and sealing, shall be resident in any other of the United States at the time aforesaid, then the recording shall be within twelve months, and if without the limits of the United States, then the recording shall be within two years; and if any deeds or any other conveyances shall not be recorded within the respective times before mentioned, such deeds or other conveyances shall be legal and valid only as to the parties themselves and their heirs, but shall be void and incapable of barring the right of persons claiming as creditors, or under subsequent purchases, recorded in the manner hereinbefore prescribed; and no such deed or conveyance whatsoever of real estate, shall be admitted to record in any county court, unless the same be acknowledged in such court by the grantor or grantors thereof, in person, or otherwise by proof of the signing, sealing and delivery thereof, to be made in open court, by the oath of two credible witnesses at the least.

And that when any such deeds or conveyances shall be acknowledged or proved in court as aforesaid, in order to their being recorded, the memorandum of livery and seizen thereupon made in deeds of *feoffment* shall in like manner be acknowledged or proved, and shall be recorded with the deed, and such memorandum proved and acknowledged as aforesaid, shall be taken and deemed a sufficient livery and seizen of the land or other real estate conveyed.

XLVI. *And be it further enacted by the authority aforesaid, That all deeds or other conveyances hereafter made in writing, under the hand and seal of husband and wife, and by them personally acknowledged in the county court, (the wife being first examined separately and apart from her husband, by some justice of the court, and giving her free consent to the same,) shall be, and are hereby declared to be, good and effectual in law to pass and convey all the estate, title and interest of such wife and her heirs; and where any feme covert shall relinquish her right of dower in any real estate, and acknowledge the same in court, or before a commissioner or commissioners, and such acknowledgment shall be recorded, the same shall be effectual in law, to convey and pass away the right of such feme covert, although she has not executed or acknowledged any deed of conveyance for that purpose.*

And where any *feme covert* cannot conveniently travel to the county court to acknowledge her deed for passing away her estate, it shall be lawful for the clerk of the county court to issue a commission to two or more commissioners, being justices of the peace in the county where such *feme covert* resides, for receiving the acknowledgment of any deed of conveyance of such *feme covert* for passing away her estate real; and such deed, so acknowledged before them, after they shall have examined her privily and apart from her husband, touching her consent without compulsion or threats, and thereof certify the justices before whom such commission shall be returnable, shall be recorded, together with the commission and return, and shall be as

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effectual as if the same had been personally acknowledged in court by such *feme covert*.

Conveyances, mortgages, &c. to be recorded. XLVII. And to the end that persons who are inclined to lend money upon the security of lands or negroes, or to become purchasers thereof, may more easily discover whether the lands or slaves offered to be sold or mortgaged, be free from incumbrances, *Be it further enacted* by the authority aforesaid, That a memorial of sales and conveyances, mortgages, marriage settlements, deeds of trust, whereby any lands or slaves, the property of any persons residing in this State, charged, incumbered or passed from one person to another, shall be registered in the secretary's office, in books to be kept for that purpose; which memorial shall contain the date of the deed or conveyance, the names, surnames and additions of the parties thereto, the consideration mentioned therein, the lands conveyed, settled or mortgaged, and where the same lies, and the number, names and ages of the slaves, if any be sold, settled or mortgaged; and the clerks of all and every of the county courts within this State are hereby required, twice in every year, in the months of January and June, to transmit memorials of all such deeds, settlements, mortgages, or other conveyances, as shall have been proved and recorded in their respective courts the preceding half year, to the secretary's office, to be there registered as aforesaid.

Provided always, that nothing herein contained shall extend or be construed to have any retrospective operation, or to effect any deeds or other conveyances heretofore registered or to be registered as by law directed.

Method of proceeding in criminal cases. XLVIII. And *whereas*, the said county courts are hereinbefore vested with criminal jurisdiction, as to all offences the punishment whereof doth not extend to life, member or corporal punishment; for settling the proceedings in such cases, *Be it enacted* by the authority aforesaid, That all offences indictable by the common or statute law of this State, where the punishment of such offence doth not extend to the deprivation of life, member or corporal punishment; and excepting also, all cases where the benefit of clergy exempts the criminal from capital punishment, the proceedings shall be in the same form, and conducted in the same manner, as the proceedings in criminal cases in the courts of general sessions of the peace, oyer and terminer, assize and general goal delivery, and the said justices shall have the same powers and authorities in all cases within their jurisdiction, as the said court of general sessions of the peace.

Juries, how to be drawn and summoned. XLIX. *And be it further enacted* by the authority aforesaid, That on the first meeting of every county court in this State, by virtue of this Act, the justices shall, previously to their entering upon other business, cause a fair list to be made out, of all the persons resident within their respective counties, who have paid a tax the preceding year towards the support of government, to serve as jurors in the courts of such counties; the grand jury list shall be composed of a sufficient number of those citizens, inhabitants aforesaid, who, in the opinion of the said courts respectively, are most respectable and independent, whose names shall be put into a box, to be provided for that purpose by the sheriff, at the expense of the county, and such grand jury shall be drawn in the same manner as is by law directed in trials in the circuit court; and the residue of the taxable inhabitants shall compose the body of petit jurors, deposited in another division of the box, and shall be drawn to serve in like manner; the clerk of the county courts shall make out the *venire facias* with the pannels annexed, signed by himself, and deliver the same to the sheriff of each county

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respectively, within one week after the adjournment of each court, who shall summon the jurors to appear, at least three days before the meeting thereof, under the penalty of five pounds lawful money, to be recovered by the court on a rule to shew cause why the penalty should not be levied; which penalty, when received, shall be applied in aid of the county taxes, for the use of the county; that the number of grand jurors to be drawn to serve at each court, shall be twenty, and not less than thirteen shall be sworn to proceed to business; and the number of petit jurors to be drawn in like manner, shall be thirty; and if any grand or petit juror shall fail to attend on being summoned as this Act directs, if a grand juror, he shall forfeit and pay the sum of three pounds lawful money, and if a petit juror, the sum of one pound ten shillings lawful money, to be recovered and applied as is hereafter mentioned.

L. *And be it further enacted* by the authority aforesaid, That the majority of the justices of the county courts respectively, for the time being, shall have full power and authority, and are hereby directed, to appoint a proper person to attend and prosecute offences on the part of the State, in the several county courts, who shall be known by the name of ^{County attorney to be appointed by the} justices, the county attorney, such persons having been previously admitted to practise the law in the said county courts; and if any person so appointed shall fail to attend and perform the duties hereby required, he shall forfeit and pay the sum of ten pounds lawful money, for each neglect, to be recovered by the court, on a rule to shew cause, and applied to the use of the county recovering the same.

LI. *And whereas*, it is just and necessary to prescribe the forms of writs issuable in the county courts, for the direction of the clerks; *Be it further enacted* by the authority aforesaid, That the following forms of writs to be issued out of the clerks' offices of the respective county courts, shall be observed and pursued, viz: ^{Forms of process.}

A capias ad respondendum in debt.

STATE OF SOUTH CAROLINA,

County of M——, to wit: To the sheriff of M—— county, greeting: We command you, that you take the body of A B, if it be found within your county, and him safely keep, so that you have his body before our justices of our county court of M——, aforesaid, on the ——, in —— next, to answer to C D, in a plea of debt for —— pounds, &c., to the damage of the said C D, —— pounds, &c., and have then there this writ. Witness, P. T. Clerk of our said court, this —— day of ——, in the year of our Lord one thousand seven hundred and ——, and of the independence of the United States of North America, the ——.

*P T, clerk of the court.**The same in case upon promise and assumption, or upon open account.*

—— As before, —— to answer to C D, in a plea of trespass upon the case for not performing certain promises and assumptions, to the damage of the said C ——, pounds, &c.

The same in trover and conversion.

—— As before, to —— to answer to C D, in a plea of trover and conversion of certain goods and chattels, to his the said A —— own use, to the damage of the said C, —— pounds, &c.

The same in detinue.

—— As before, to ——, to answer to C D, in a plea of detinue

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for one negro man slave (or other specified property,) named [Pompey,] aged ———, to the damage of the said C, ——— pounds, &c.

The same in trespass for breaking the close.

——— As before, to ———, to answer to C D, in a plea of trespass, for breaking and entering the close of him the said C, and cutting down and destroying the timber, trees, wood, grass, and so forth, within the said close, then and there growing, to his damage, ——— pounds, &c.

The same in trespass, assault and battery.

——— As before, to ———, to answer to C D, in a plea of trespass, assault and battery, to the damage of the said C, ——— pounds, &c.

The same in trespass, assault and false imprisonment.

——— As before, to ———, to answer to C D, in a plea of trespass, assault and false imprisonment, to the damage of the said C, ——— pounds, &c.

The same in slander for words.

——— As before, to ———, to answer to C D, in a plea of trespass on the case, for certain false, scandalous and malicious words, by the said A B, spoken and published of the said C D, to his damage, ———, &c.

The same for a malicious prosecution.

——— As before, to ———, to answer to C D, in a plea of trespass on the case, for falsely and maliciously causing and procuring the said C D, to be prosecuted for felony, or perjury, or other crime, to the damage of the said C, ———, &c.

The same for criminal conversation with plaintiff's wife.

——— As before, ———, to answer to C D, in a plea of trespass on the case for criminal conversation with F, the wife of the said C, to the damage of the said C, ———, &c.

That all other writs to be issued out of any clerk's or prothonotary's offices of this State, in consequence of the establishment of county courts, shall be in such form of words as shall be advised and approved by the judges of the court of common pleas, and shall be thereafter used by all clerks of county courts, on pain of forfeiting their respective offices.

LII. *And be it further enacted* by the authority aforesaid, That in all actions of detinue, the general issue shall be *non detinet*, and may be sued and prosecuted in the same manner as trover or conversion, and no wager of law shall be allowed or admitted.

LIII. *And whereas*, it is necessary to vest the said county courts with a jurisdiction over taverns and highways; *Be it further enacted* by the authority aforesaid, That the justices of the said county courts respectively, on the first court which shall be held in each succeeding year, shall hear, in open court, all applications for licenses to keep taverns or public houses within their respective counties, and shall reject such application, or grant such licenses for one year, as to them shall seem meet; and every person who shall obtain a license to keep tavern, shall give bond, with two sufficient surities, in the sum of one hundred pounds lawful money, payable to the justices of the court where such licenses shall be obtained, for the use of the county; that such person shall keep clean and wholesome meat and drink, and lodging for travellers, and the usual provender for horses; and if any person shall presume to keep a tavern without having obtained such license, such person shall forfeit and pay the sum of twenty pounds lawful money, to be recovered by indictment or information, in any court of record

County courts
to license ta-
vern keepers.

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having jurisdiction; one moiety thereof to the use of the county, the other to the person who shall inform and prosecute for the same.

LIV. *And be it further enacted* by the authority aforesaid, That the several justices, at the session wherein such licences shall be granted, shall cause a fair rate of meat, drink and lodging, and provender for horses, to be made and ascertained, allowing tavern keepers a just and reasonable profit; attested copies thereof shall be made out by the clerk of the court, and each licensed tavern keeper shall have one, and shall affix the same in the most conspicuous part of his most public room, convenient for the inspection of all persons calling at the said tavern, and shall charge no more than is allowed in such rates; and if any tavern keeper shall charge or demand more than by the said rates he is allowed and authorized to charge, he shall forfeit and pay three times the amount of such charge; to be recovered by warrant, indictment or information before any justice of the peace, or court having jurisdiction; one half to the person who shall inform and sue for the same, and the other to the use of the county where the same shall be recovered.

Rate of tavern charges, how to be regulated.

LV. *And be it further enacted* by the authority aforesaid, That the said justices shall have all the powers and authorities heretofore vested in the commissioners of the roads, rivers, and bridges and causeways; shall direct the building bridges or opening the navigation of water courses, not otherwise provided for by law, in their respective counties, in as full and ample manner as hath been heretofore accustomed to be exercised by the said commissioners; and all boards of commissioners for the above purposes, and all laws for their appointment, from and immediately after the said county courts shall meet and open the same for the exercise of the powers herein vested in them, shall, and are hereby directed to, be abolished, repealed and made void, to all intents and purposes; and the said county courts shall, at the same courts wherein tavern licenses are to be granted, appoint such and so many overseers of the public roads within their respective counties, as to them shall seem necessary, and shall order and assign the several free male inhabitants or slaves contiguous to and convenient to the several roads, to work thereon; and each overseer of the roads shall have his limits assigned him, and shall keep the same in good repair; and if any person shall be appointed overseer of a road, and shall refuse to act for one year, or shall neglect to keep the road assigned him in good repair, each and every such person appointed shall forfeit and pay the sum of ten pounds lawful money; to be sued for, by indictment or information, in any court having jurisdiction; one half to the court justices, for the use of the county, the other to the informer prosecuting for the same; *Provided nevertheless*, that no person shall be compellable to act as overseer of the road, for more than one year in three, and shall moreover, during his continuance in office, be privileged from attending common, but not general, musters of the militia; and all county courts who shall neglect to appoint overseers of roads, or do all such matters and things required by this Act for the keeping the public roads in good repair, shall be amenable to the circuit court, on indictment or information, and may be fined at the discretion of such circuit court, not exceeding fifty pounds lawful money for each neglect.

County courts vested with jurisdiction over roads, bridges, &c.

LVI. *And be it further enacted* by the authority aforesaid, That the power and jurisdiction of magistrates under the Act for the trial of small and mean causes in each county, respectively, from and after holding the first court therein, shall not extend to the trial of a small and mean cause

Power of a single magistrate not to extend to damages for trespass, &c.

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where the debt or demand exceeds the sum of twenty shillings, lawful money, and in no case where the demand is founded on damages incurred by trespass, assault and battery, trespass *vi et armis*, or slander; and if any magistrate shall give damages in any such case, the county court shall, upon application of the party aggrieved, cause the justice to produce a transcript, signed by himself, of the decision, and reverse the same; but in all cases, except those above mentioned, the power and jurisdiction of the magistrates within this State shall be the same, as far as the sum of twenty shillings, lawful money, exclusive of the costs, as in and by the said Act for the trial of causes small and mean is directed.

LVII. *Be it further enacted* by the authority aforesaid, That no county courts shall be established in any of the counties into which Charleston, Georgetown and Beaufort districts are divided, until a majority of the taxable inhabitants of such county shall, respectively, apply by petition for the same, in which case, and not before, commissioners shall be thereon elected to carry into effect this law; any thing hereinbefore contained to the contrary in any wise notwithstanding.

Fees.

LVIII. *And be it further enacted* by the authority aforesaid, That the following table of fees shall be the lawful and established fees for the several services therein mentioned, and no officer shall presume to take any other or greater fees; and if any officer shall, knowingly and advisedly, demand or receive any more than is allowed by this Act, such officer shall be liable to refund to the party aggrieved three times the amount of such extorted fees, and all damages accruing, and shall forfeit the office which such person shall then hold, and be declared incapable of serving in the same, or any other office in this State; and the clerk of the county court shall be allowed for recording every instrument of writing, three pence per copy sheet, which copy sheet shall not contain less than ninety words, and for every copy of such instrument of writing, two pence per copy sheet, containing not less than ninety words.

A TABLE OF FEES.

County Court Clerk's Fees.

For the whole fee of a tavern license and bond,	£ 0 9 4
For every search for any thing above a year's standing,	0 1 0
For searching and reading, or shewing to be read, any paper or record, filed within the office, whereof a copy is not desired,	0 1 0
<i>In Actions and other suits.</i>	
For every writ, other than such as are hereinafter particularly mentioned,	0 2 6
For every copy of each writ,	0 1 6
For every writ of <i>fiery facias</i> , <i>capias ad satisfaciendum</i> , or <i>seire facias</i> ,	0 2 6
For a copy thereof,	0 1 6
For a writ of attachment in any action,	0 2 6
For recording the return thereof, three pence per copy sheet,	
For an attachment granted by the justice of peace, returnable to the court, and putting same upon the docket,	0 2 6
For every summons to summon any person on such attachment,	0 1 6
Filing every bail bond, or entering the bail returned,	0 1 6
For docketing every cause, except by summons or petition, to be charged but once,	0 1 0
For a copy of the return of any writ,	0 0 6

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For entering any special bail,	0	2	0
For entering security for costs for persons out of the county,	0	2	0
For entering the appearance of the defendant or defendants, where there is no attorney, in any suit, except by summons and petition,	0	0	6
For entering one or more attornies for each party,	0	1	0
For every petition, declaration, plea, demurrer or joinder, &c., except in petitions for debt, detinue, assumpsit or trover,	0	2	0
For a copy of any declaration, special pleading or demurrer,	0	2	0
For every trial, swearing the jury and witnesses, filing all papers, and receiving and recording general verdict,	0	4	8
For every trial, where there is a special verdict, or case agreed, and recording the same,	0	6	0
For swearing the witnesses in every other cause where there is no jury or case agreed,	0	1	0
For filing the papers of each party in every cause, and where there is a jury or case agreed,	0	2	0
For a copy of a special verdict, or case agreed, and every thing therein set forth; or for making up a full and complete record of any cause, for every ninety words, two pence,	0	0	2
For entering every judgment, or for a copy thereof,	0	1	0
For every deposition taken in court, or a copy thereof,	0	1	0
For administering an oath in court, not relating to the trial of any cause there,	0	1	0
For every recognizance in court,	0	2	0
For entering the order or orders in any cause in one court,	0	2	6
For every order for a witness or other person's attendance,	0	2	0
For a copy of any order, two pence per copy sheet,			
For recording the report of a jury in the county, before a surveyor, auditor or viewer,	0	3	6
For a copy thereof,	0	2	6
For taxing costs to any judgment or decree where costs are recovered, or for a copy of a bill of costs, if required,	0	2	0
For a copy of an accoutt,	0	2	0
For entering an appeal, and taking bond to prosecute it,	0	4	0
For a copy of the bond,	0	1	0
For returning appeal and security to the office of clerk of the supreme court,	0	4	8
For returning writ of <i>supersedeas</i> , <i>certiorari</i> , or <i>habeas corpus</i> ,	0	4	6
For a copy of the proceedings of the cause wherein the appeal is granted, for every ninety words,	0	0	3
For recording the acknowledgment of the satisfaction of a judgment,	0	2	0
For entering each order for a witness's attendance, to be charged to the party in whose behalf the witness is summoned, and taxed in the bill of costs, if such party recover,	0	1	6
For a copy thereof, to be taxed and charged in like manner,	0	1	0
For an attachment thereon, to be charged to the party against whom such attachment shall be issued,	0	1	6
For the whole fee chargeable for every summons and petition for debt, detinue, assumpsit or trover, and all the proceedings therein, including a copy of the judgment, and taxing costs, if required, except the respective fees for summoning witnesses, entering attornies, for every order for continuance,			

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and for issuing execution, where such matters happen,	0	10	0
For a summons for several witnesses living in one county, if summones for all be taken out at one time,	0	2	6
For recording any writings not herein particularly mentioned, or for a copy thereof, for every ninety words,	0	0	3
For all public services of the clerk, viz: entering and issuing copies of orders for appointing overseers of highways, appointing constables, grand juries, drawing juries, issuing <i>venires</i> , taking list of taxables, entering guardian's accounts, and all matters relating thereto, binding out poor orphans and appointing guardians, entering county assessments and copies thereof, entering and issuing orders for recommending sheriffs and justices of the peace, and all other public services for which no particular fee is allowed, (to be assessed and levied annually, by the justices of the county,)	15	0	0

And where more attornies than one shall be employed in any cause on one side, if such attornies take out more than one copy of any thing necessarily relating to the suit, yet no more than one copy shall be allowed in the bill of costs; neither shall the clerks tax any fee in the bill of costs for entering any more than one attorney, although costs shall be adjudged against the adverse party; and when any suitor shall retain all the attornies practising at the court wherein such suit is brought, on the petition of the defendant the court shall assign one of the said attornies to appear and defend such defendant, for the legal and accustomed fees, and such attorney shall be compellable by the court to undertake such defence, under the pain of being silenced and disfranchised in such court.

To the Sheriff.

For an arrest, bail bond and return,	£	0	4	8
For returning any process <i>non est inventus</i> ,		0	2	0
For serving a writ of <i>scire facias</i> ,		0	2	6
For serving any person with an order of court, and making return thereof, to be paid by such persons,		0	3	6
For putting any person in the pillory,		0	4	8
For putting into the stocks,		0	2	6
For putting in prison and releasement,		0	4	8
For serving a subpcena in chancery,		0	3	6
For serving a summons or petition for debt, detinue, assumpsit or trover,		0	3	6
For serving a subpcena for a witness in any cause in court, except summoned in court,		0	2	6
For summoning an appraiser, viewer, or witness to any deed, will or writing, if required to be summoned, and not else,		0	2	6
For summoning and impannelling a jury, in every cause where a jury shall be sworn,		0	2	0
For removing every criminal from the county goal to the district goal, for every mile in going and returning, to be paid by the public, per mile,		0	0	3
For removing any person by <i>habeas corpus</i> from the county goal or other confinement, to the public goal, or before any judge of the circuit court, to be paid by the person applying for the same, unless removed by public order, in which case to be paid by the public, for every mile going and returning,		0	0	3

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For executing any condemned person, and all fees incident,	1	0	0
For summoning a jury upon any inquisition, survey, writ of dower, or petition, if the jury appear,	1	10	0
For the same, if the jury do not appear,	0	15	0
For making return of any writ of dower or partition,	0	7	6
For every day's attendance upon a jury in the county, after they are sworn, or attendance on a survey, or when ordered by the court,	0	7	6
For issuing a writ of <i>habere facias</i> , <i>siesinam</i> or <i>habere facias possessionem</i> ,	0	7	6
For serving an attachment on the body,	0	5	0
For serving declaration in ejectment, if against any one tenant,	0	4	8
And if against more tenants than one, for the serving the same on every such tenant,	0	3	6
For whipping a slave by order of court, to be paid by the county,	0	5	0
For serving any execution of a judgment, five per centum commission on the first hundred pounds, and two per centum for all above,			
For serving an attachment on goods exceeding five pounds, if sold, the same fee as for serving execution, where the goods do not exceed that value, or are not sold,	0	5	0
For every person on attachment, summoned,	0	2	6
For serving and returning a writ, summons or order, from the circuit court, where the same is not comprehended in any of the foregoing articles,	0	5	0
For keeping and providing a debtor in goal, each day,	0	1	0
For keeping and providing for a runaway slave or criminal in goal, the former to be paid by the owner, the latter by the public,	0	1	0
For serving a warrant of a justice of peace,	0	2	6
For summoning witness before a justice,	0	1	0
For all public services of the sheriff, to wit : attending courts of claims, summoning and impannellinng grand juries, publishing writs for electing members to the General Assembly, taking the ballots and returning the writ, serving all public orders of court, and all other public and county service for which there is no specified fee, to be annually assessed and levied by the county courts,	15	0	0

To the Coroner.

For taking an inquisition on a dead body, to be paid out of the deceased his estate, if sufficient, if not, by the county,	1	0	0
For all other business done by him, the same fees as are allowed the sheriff for the same services,			

To the Constable.

For serving a warrant,	0	2	6
For summoning a witness,	0	1	6
For summoning a coroner, jury and witnesses,	0	10	0
For putting a person in the stocks,	0	2	6
For serving an execution or attachment, returnable to the county court, against the estate of a debtor removing his effects out of the country,	0	7	6

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For whipping a slave by lawful authority, to be paid by the overseer, if no overseer, by the owner,

0 2 6

Accounts for
fees, how to be
made out.

LIX. *And be it further enacted* by the authority aforesaid, That none of the fees hereinbefore mentioned, shall be payable by any person whatsoever, until there shall be produced, or ready to be produced, unto the person owing or chargeable with the same, an account in writing, containing the particulars of such fees, signed by the clerk or officer to whom such fees shall be due, or by whom the same shall be chargeable, respectively, in which said bill or account is and shall be expressed, in words at length, and in the same manner as the fees aforesaid are allowed by this Act, every fee for which any money is or shall be demanded.

Table of fees to
be exhibited by
clerk.

LX. *And be it further enacted* by the authority aforesaid, That every clerk of a county court shall cause to be set up, in the most conspicuous place in his office, and in the court house of his county, and there constantly kept, a fair table of all clerks, sheriffs, coroners and constables fees, hereinbefore mentioned, together with the fees of an attorney in the county courts, on pain of forfeiting three pounds, lawful money, for every court day the same shall be missing through his neglect, which penalty shall be to the person or persons who shall sue for the same by action of debt, in any court of record having jurisdiction.

Fees of attor-
ney.

LXI. *And, for regulating the fees of attorneys, Be it further enacted* by the authority aforesaid, That in every action brought in the county courts, where an attorney is employed, he shall be allowed one pound one shilling and nine pence, for an attorney's fee, which shall be taxed in the bill of costs, and recovered by the person in whose favor judgment for costs shall be given; and in every summons and petition, fourteen shillings shall be allowed and taxed, as an attorney's fee, in like manner; and if any attorney in the said courts shall presume to demand any greater or other fee, in any action at law or summons and petition, or for making defence in either of them, than is above specified, such attorney shall forfeit and pay the sum of fifty pounds sterling, to be recovered by any informer who shall inform and sue for the same, by action of debt for the penalty, in any court of record having jurisdiction.

Coroner.

LXII. *And be it further enacted* by the authority aforesaid, That coroners for the respective counties shall be chosen in the same manner as sheriffs are by this Act appointed to be chosen, and shall be qualified and commissioned in like manner.

Weights and
measures.

LXIII. *And be it further enacted* by the authority aforesaid, That the several justices of the county courts in this State, as soon as the same shall take place in the respective counties, shall have full power and authority to regulate weights and measures within each of their respective jurisdictions, and shall enforce the observance thereof in such manner and form, and under such penalties, as are already prescribed by law for regulating weights and measures.

In the Senate House, the twenty-fourth day of March, in the year of our Lord one thousand seven hundred and eighty-five, and in the ninth year of the Independence of the United States of America.

JOHN LLOYD, *President of the Senate.*

JOHN FAUCHEREAUD GRIMKE,

Speaker of the House of Representatives.

Acts relating to Courts.

A. D. 1786.

No. 1303.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT FOR ESTABLISHING COUNTY COURTS, AND FOR REGULATING THE PROCEEDINGS THEREIN."

WHEREAS, it is found necessary to alter the days whereon the courts of the several counties hereinafter mentioned, are directed to be held, and amend several other clauses of the county court law :

I. *Be it therefore enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That an additional number of magistrates, not exceeding two to each county, shall be added to the present number ; and which additional magistrates shall be nominated and commissioned in like manner as is prescribed by an Act entitled "An Act for establishing county courts, and for regulating the proceedings therein," passed the seventeenth day of March, one thousand seven hundred and eighty-five. Additional magistrates to be appointed.

II. *And be it further enacted* by the authority aforesaid, That the courts of the several counties shall have power and jurisdiction to hear and adjudge all felonies committed within their respective counties, which shall come under the description of larceny, where the value of the property stolen shall not exceed the sum of forty shillings ; which said crime of larceny, upon lawful conviction after indictment found and the verdict of a jury, shall be punished with whipping, not exceeding thirty-nine lashes. Jurisdiction as to felonies.

III. *And be it further enacted* by the authority aforesaid, That in those counties where courts are established, the jurisdiction of a single magistrate shall extend from twenty shillings as far as five pounds, in matters of debt, liquidated by bond, note or other acknowledgement in writing, and no other matters whatsoever ; and if any person shall be aggrieved by the judgment of any magistrate, where the matter in dispute shall be above twenty shillings, he shall have a right to appeal to the court of the county where such judgment shall be given ; and upon such appeal demanded, the magistrate shall certify the proceedings before him to the next county court, where such appeal shall be heard and adjudged in a summary way, as in cases of petition and summons, and the same costs shall be chargeable thereupon. Jurisdiction of a single magistrate.

IV. *And be it further enacted* by the authority aforesaid, That the summary jurisdiction of the county court shall extend to ten pounds instead of five pounds, prescribed by the county court Act, and shall be tried and adjudged in the manner and upon the principles by that Act directed ; but in case both parties shall desire to have the said causes tried by a jury, or on application of either party at his own expense, then the said judges shall immediately order issue to be joined, and the said cause to be tried by the jury impanelled at such courts ; *Provided*, such sum so sued or prosecuted for, shall not be less than five pounds. Summary jurisdiction of the county court.

V. *And be it further enacted* by the authority aforesaid, That the tax imposed by law on taverns and tavern licenses, shall, in the counties where courts are established, be collected and appropriated by the respective county courts, to the use of their county, towards lessening the county assessment. Tax on taverns.

VI. *And be it further enacted* by the authority aforesaid, That every county court clerk shall obtain the approbation of his county court in the appointment of a deputy clerk, before any such person deputed shall be allowed to act in the place of his principal as a lawful deputy ; and every clerk of a county court shall keep his office at the court house, under the penalty of being deprived of such office ; *Provided*, that six months be Deputy Clerk. Clerk's office to be kept at the C. H.

A. D. 1786.

Acts relating to Courts.

allowed from the passing this Act, to such clerk, to remove his office, in compliance therewith.

Courts of cer-
tain counties,
when to be
held.

VII. *And be it further enacted* by the authority aforesaid, That the courts of the several counties hereinafter mentioned, shall be held on the respective days herein prescribed, that is to say : for the county of Chester, on the first Monday in January, April, July and October ; for the county of York, the second Monday in January, April, July and October ; for the county of Fairfield, on the second Monday in February, May, August and November ; for the county of Richland, on the third Monday in February, May, August and November ; for the county of Claremont, on the second Monday in March, June, September and December ; and for the county of Clarendon, on the third Monday in March, June, September and December.

Limits of Win-
ton county.

VIII. *And be it further enacted* by the authority aforesaid, That the upper line of Winton county shall extend from Savannah river along the lower line of Ninety-Six district, till it intersects the road leading from the ridge to Orangeburgh, thence down the said road till it reaches Orange county line, thence along the said line to the head of Little Saltkatcher, thence down the same to the line of Beaufort district, thence along the same to the Savannah river, thence up the same to the beginning.

Clerk and
sheriff.

IX. *And be it further enacted* by the authority aforesaid, That for all the public services of the clerk, for which no particular fee is allowed, he shall receive five pounds per annum, and no more ; and for all the public services of the sheriff, for which no particular fee is allowed, he shall receive seven pounds ten shillings per annum, and no more ; any law to the contrary thereof in any wise, notwithstanding.

Deeds, how to
be proved.

X. *And whereas*, by a clause in the aforesaid Act, passed on the seventeenth day of March last, directing the method of proving and recording of deeds, the grantor or two evidences are required to appear before court, which, in many cases, might be very inconvenient or impracticable, because of such grantor and evidences residing out of the State, or at some considerable distance from the county where lands or other property conveyed may be ; *Be it therefore enacted* by the authority aforesaid, That where any deed or conveyance of land, bill of sale, mortgage or transfer of property, within any county in this State, shall be executed out of the State, then, and in all such cases, the justices of the county where such lands or other property lie, are hereby authorized to issue their *dedimus* to any two or more justices of the county where the grantor, seller, grantors or mortgagor of such property may reside, to take his, her or their acknowledgment of such deed or conveyance, upon the oath of any two evidences who were present at executing such deed ; and where the said grantor, grantors, seller or mortgagor, reside in this State, and out of the county where such lands or other property so conveyed may lie, then, and in all such cases, acknowledgement by the party, or proof by two evidences, as aforesaid, before any one judge of the court of common pleas and general sessions within this State, or any three of the justices of the county wherein such property may be, shall be deemed good and sufficient proof of such deed or conveyance, which shall be recorded in the records of such county, within the time directed by the said Act ; any law, usage or custom to the contrary notwithstanding.

In the Senate House, the eleventh day of March, in the year of our Lord one thousand seven hundred and eighty-six.

JOHN LLOYD, *President of the Senate.*

JOHN FAUCHEREAUD GRIMKE,

Speaker of the House of Representatives.

Acts relating to Courts.

A. D. 1786.

No. 1325.

AN ORDINANCE FOR ESTABLISHING A COUNTY AND COUNTY COURTS
IN THE NEW CEDED LANDS ON THE NORTH SIDE OF SALUDA RIVER.

WHEREAS, the inhabitants of the new ceded lands on the north side of Saluda river, below the Indian line, have experienced many inconveniences, by being annexed to some of the counties heretofore established;

I. *Be it ordained* by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That a county shall be established in the new ceded lands, by the name of Greenville, and shall be bounded by Saluda river and the south fork thereof, the old Indian boundary, and the North Carolina line, and shall be entitled to county courts, to be held on the third Monday in February, May, August and November; which courts shall hold, exercise and enjoy the several powers and jurisdictions which are by law vested in the said county courts heretofore established.

In the Senate House, the twenty-second day of March, in the year of our Lord one thousand seven hundred and eighty-six, and in the tenth year of the Independence of the United States of America.

JOHN LLOYD, *President of the Senate.*

JOHN FAUCHEREAUD GRIMKE,

Speaker of the House of Representatives

AN ACT TO ALTER AND AMEND AN ACT ENTITLED "AN ACT FOR ESTABLISHING COUNTY COURTS, AND FOR REGULATING THE PROCEEDINGS THEREIN," PASSED THE SEVENTEENTH DAY OF MARCH, ONE THOUSAND SEVEN HUNDRED AND EIGHTY-FIVE; AND FOR OTHER PURPOSES THEREIN MENTIONED.

No. 1377.

WHEREAS, it is found necessary to make some further alteration and amendments to the county court Act;

I. *Be it therefore enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the number of justices in each county may be increased to eleven, for each and every county.

II. *And be it further enacted* by the authority aforesaid, That the grand juries for the respective counties shall be liable hereafter to be summoned only twice a year, instead of four times, as heretofore; and that the time of their being summoned, be regulated by each court, respectively.

III. *And be it further enacted* by the authority aforesaid, That all fines and forfeitures which are recoverable in the county courts, shall be hereafter applied to the use of the county in which they are so recovered, and no other.

IV. *And be it further enacted* by the authority aforesaid, That the powers heretofore vested in church wardens, and the court of sessions, respecting bastardy and taking recognizances for the maintenance of bastards, be henceforward likewise vested in each and every county court.

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V. *And be it further enacted* by the authority aforesaid, That from and immediately after the passing of this Act, the powers and authorities heretofore used and exercised by the Ordinaries of the districts where county courts are established, shall be, and the same are hereby, vested in the judges of the said county courts; any law, usage or custom to the contrary, notwithstanding.

VI. *And be it further enacted* by the authority aforesaid, That the power and jurisdiction of a single magistrate, where county courts are established, shall extend to the trial of all cases of debt not exceeding three pounds; and law or usage to the contrary notwithstanding: *Provided nevertheless*, the party conceiving himself aggrieved may have an appeal to the county court, but it shall be in the discretion of the justices to award double costs against the appellant, in case it shall appear to them the appellant had not just grounds to appeal.

In the Senate House, the twenty-eighth day of March, in the year of our Lord one thousand seven hundred and eighty seven, and in the eleventh year of the Independence of the United States of America.

JOHN LLOYD, *President of the Senate.*

JOHN JULIUS PRINGLE,

Speaker of the House of Representatives.

No. 1387. AN ACT AUTHORIZING JUSTICES OF THE PEACE, WHERE THERE ARE NO COUNTY COURTS ESTABLISHED, TO ISSUE ATTACHMENTS AGAINST THE PROPERTY OF PERSONS WHO ARE ABOUT TO ABSCOND OR REMOVE PRIVATELY OUT OF THE STATE OR DISTRICT.

WHEREAS, by the fourth clause of the Act for establishing county courts, the justices, where those courts are established, are authorized to issue attachments against the property of persons who are absconding or removing privately out of a county; and the said Act hath omitted to give the like authority to the justices where county courts are not established.

I. *Be it enacted*, That all and every authority contained in and given by the fourth or other clauses of the said Act to the county courts, and to any justice, sheriff or constable, concerning the issuing, serving, returning attachments, or disposing of such property, shall be, and the same is by virtue of this Act, given to the district courts, justices and other officers, as in the first mentioned Act specified.

In the Senate House, the twenty-seventh day of February, in the year of our Lord one thousand seven hundred and eighty-eight, and in the twelfth year of the Independence of the United States of America.

JOHN LLOYD, *President of the Senate.*

JOHN JULIUS PRINGLE,

Speaker of the House of Representatives.

Acts relating to Courts.

A. D. 1788.

AN ACT TO CARRY INTO EFFECT THE ORDINANCES OF CONGRESS, FOR No 1396.
 ESTABLISHING COURTS FOR TRIAL OF PIRACY AND FELONIES COMMIT-
 TED ON THE HIGH SEAS.

IN ORDER to carry into execution two Ordinances of Congress, the one passed the fifth day of April, one thousand seven hundred and eighty-one, the other, the fourth day of March, one thousand seven hundred and eighty-three, for establishing courts for trial of piracy and felonies committed on the high seas,

I. *Be it enacted* by the honorable the Senate and House of Representatives, in General Assembly now met, and by the authority of the same, That where any person or persons have heretofore or shall hereafter commit any piracy or felony on the high seas, or who shall be charged as accessaries before or after the fact, and have been or shall be brought into this State for trial, the grand and petit jurors for the district of Charleston, who have been or shall be summoned, and shall appear for the trial of offenders before the court of sessions, or not appearing, any *tales* jurors who shall be drawn out of the special jury list for the said district, shall enquire of, try and adjudge every such offender, in such manner as if the offence had been or shall be committed within the said district; and every such grand and petit juror shall thereupon be subject for non-appearance or misdemeanor, to the fines and penalties to which such jurors are liable by any law of this State.

In the Senate House, the twenty-seventh day of February, in the year of our Lord one thousand seven hundred and eighty-eight, and in the twelfth year of the Independence of the United States of America.

JOHN LLOYD *President of the Senate.*

JOHN JULIUS PRINGLE,

Speaker of the House of Representatives.

AN ACT TO ALTER AND AMEND THE SEVERAL COUNTY COURT ACTS. No. 1411.

I. *Be it enacted* by the honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That from and after the passing of this Act, it shall not be necessary for the grantor or grantors of any deed or conveyance, to acknowledge the same in open court, or for the witnesses attesting the same, to prove them in open court, for the purpose of their being recorded in the county courts; but the acknowledgment of the deed by the grantor, before a judge of the supreme court, or oath of one witness before a magistrate out of court, swearing that the deed was duly and legally executed, as heretofore has been the practice to make proof, shall be sufficient for that purpose; and that this provision shall extend to the proving all deeds which have been executed at any time prior to the establishment of county courts.

II. *Be it further enacted* by the authority aforesaid, That the jurisdiction of a single magistrate, where county courts are established, shall hereafter extend to the trial of all cases of debt, not exceeding five pounds; Jurisdiction of a single magistrate.

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any law to the contrary notwithstanding; with the same right of appeal as is given in the sixth clause of an Act entitled "An Act to amend the county court Act," passed the twenty-eighth day of March, one thousand seven hundred and eighty-seven.

Fees.

III. *Be it further enacted* by the authority aforesaid, That the following fees, and no other, be allowed the clerks of the several county courts, for performing the duties of ordinary, viz:—for a citation, one shilling and six pence; for each administration bond, one shilling; for letters of appraisement, one shilling; for a *dedimus*, one shilling; for the probate of a will, one shilling; for granting letters testamentary, one shilling and six pence; for granting letters with the will annexed, one shilling and six pence; for recording of any of the above instruments and the appraisement, three pence per copy sheet.

Constables.

IV. *Be it further enacted* by the authority aforesaid, That a quorum of each and every county court be authorized to appoint as many constables as such quorum shall deem necessary, and that the said constables be subject to the same regulations, fines and penalties, as the constables of the superior court are now liable to by law.

As to retailing
of spirituous
liquors.

V. *Be it further enacted* by the authority aforesaid, That the authority and superintendence of the county courts over taverns and tavern keepers, shall extend to all persons who shall retail within the jurisdiction of any county court, any wine, brandy, rum, gin, beer, cider, punch, or other spirituous liquors or strong drink whatsoever, in any quantity less than three gallons; *Provided always*, that it shall and may be lawful for any person to sell any spirituous liquors distilled from the produce of his own land, in any quantity not less than one gallon; and that every person, on taking out a tavern license, shall pay the sum of thirty shillings to the court, and five shillings to the clerk, from whom such license is obtained.

Boundaries of
certain
districts.

VI. *Be it further enacted* by the authority aforesaid, That so much of the Act entitled "An Act for laying out the State into counties," as respects the dividing line between the districts of Ninety-Six and Orangeburgh, be repealed; and that the county of Newberry, in Ninety-Six district, be hereafter bounded by the old Ninety-Six line, and that so much thereof as was under the above mentioned Act declared to be included in Ninety-Six district, viz: the eight miles below the district line, be included in Lexington county, Orangeburgh district.

Property taken
under attach-
ment.

VII. And *whereas*, the seizing of property under attachment, is at present confined to the sheriffs alone, *Be it enacted* by the authority aforesaid, that from and after the passing of this Act, any constable, within each and every county, may take property under attachment; *provided*, the same do not exceed the value of twenty pounds.

Frivolous ap-
peals.

VIII. *And be it further enacted* by the authority aforesaid, That if any attorney shall advise, bring up or prosecute any appeal from the judgment of a county court, which, by the superior court, may be deemed frivolous and groundless, the costs incurred by such appeal shall be taxed on every such attorney; any law to the contrary notwithstanding.

Attorney's
fees.

IX. *And be it further enacted* by the authority aforesaid, That the attorney's fee in all prosecutions in the county court, on behalf of the State, shall be one pound, and on prosecution of each appeal from such county court, in the supreme court, shall be two pounds, and no more.

X. *And be it further enacted* by the authority aforesaid, That the court of the county of Winton shall be held on every first Monday in May, August, November and February, in every year, instead of the third Tuesdays

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of April, July, October and January ; and that the county court of Darlington shall be held on the third Monday in March, June, September and December, instead of the days at present established by law.

XI. *And be it further enacted* by the authority aforesaid, That the county of Abbeville shall be entitled to three magistrates, in addition to the number heretofore prescribed by law, and that they shall be appointed in that part of the county lying above the old Indian boundary. Abbeville.

XII. *And be it further enacted* by the authority aforesaid, That a quorum of the justices of the several county courts shall have power and authority to qualify magistrates appointed for their respective counties. Quorum.

XIII. *And be it further enacted* by the authority aforesaid, That the late Ordinaries of the several districts where county courts are established, are hereby directed and authorized to deliver up all records in their respective offices, to the clerks of the pleas of the several circuit courts in the said districts, respectively ; and to which said records, all and every person and persons shall and may have recourse when and as often as they may think proper, upon paying the sum of one shilling for each and every search or examination ; and the ordinary or ordinaries refusing or wilfully neglecting so to do, within six months after the order of the county court, served on him or them, shall be liable to the penalty of fifty pounds, to be recovered in any court of record, for the use of the county whose order he or they may have disobeyed or neglected, as aforesaid. Ordinaries.

In the Senate House, the twenty-ninth day of January, in the year of our Lord one thousand seven hundred and eighty-eight, and in the twelfth year of the Independence of the United States.

JOHN LLOYD, *President of the Senate.*

JOHN JULIUS PRINGLE,

Speaker of the House of Representatives.

AN ACT TO REMEDY THE DEFECTS OF THE COURTS OF ORDINARY IN No. 1444.

THE SEVERAL DISTRICTS WHERE THERE ARE NO COUNTY COURTS, AS TO MATTERS AND CASES IN WHICH THE ORDINARIES OF THOSE DISTRICTS MAY BE RESPECTIVELY INTERESTED.

WHEREAS, there are no persons or courts having prerogative or peculiar jurisdiction in cases or matters in which the Ordinaries of the several districts where there are no county courts established, are respectively interested, by reason whereof, the said Ordinaries are at a loss, and unable to qualify as executors of the last will and testament of any person or persons deceased, when they are respectively nominated and appointed, or to obtain administration of the goods and chattels, rights and credits of any person or persons dying intestate, to which administration the said Ordinaries may be respectively entitled.

I. *Be it enacted* by the honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the Ordinaries of Charleston, Georgetown and Beaufort

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districts, when respectively appointed executors of the last will and testament of any person or persons deceased, within their several jurisdictions, and shall choose to take on them the burthen and execution thereof, they shall prove such last wills and testaments, and qualify as executors thereof, before one or more of the judges of the court of common pleas, either during term time or the vacation; and in cases where the said Ordinaries, respectively, may seek or require administration of the goods, chattels, rights and credits, of any person or persons dying intestate, within their several jurisdictions, or administration with the will annexed, either one or more of the said judges of the court of common pleas, in time term or during the vacation, may have cognizance and jurisdiction of, and determine respecting the same, and grant letters of administration, if the said Ordinaries should be thereunto respectively entitled, and take bond for due administration, and have and do all other acts and proceedings thereunto incident; *Provided nevertheless*, and it is hereby *enacted*, that the said Ordinaries, respectively, shall record in their several offices the last wills and testaments aforesaid, and probates thereof, and letters of administration, and all other proceedings in cases testamentary and of administration, in the same manner as is practised with respect to cases where they may not be interested and concerned, after the same shall have been first recorded in the office of the clerk of the district where such will shall be proved, or administration granted as aforesaid.

In the Senate House, the seventh day of March, in the year of our Lord one thousand seven hundred and eighty-nine, and in the thirteenth year of the Independence of the United States of America.

D. DESAUSSURE, *President of the Senate.*

JACOB READ, *Speaker of the House of Representatives.*

No. 1447. AN ACT TO REVIVE AND CONTINUE THE AUTHORITY, ACTS, AND JUDICIAL PROCEEDINGS OF THE COURT OF COMMON PLEAS, TO BE HELD IN CHARLESTON; AND FOR OTHER PURPOSES THEREIN MENTIONED.

WHEREAS, by the unavoidable absence of three of the judges, who were engaged on the circuit, and by the unexpected death of another of them, there was no judge present to hold and adjourn the court of common pleas in Charleston, on the last return day, being the ninth day of December past; whereby, all the proceedings of the said court have been suspended and discontinued; and it is absolutely necessary and proper to revive and continue the same.

I. *Be it enacted* by the honorable the Senate and the House of Representatives, in General Assembly now met and sitting, and by the authority of the same, That the said court of common pleas, together with all the business therein depending, on the ninth day of December last past, shall stand and be adjourned over unto the next sitting of the said court, which shall be held in Charleston, as shall be hereinafter particularly directed; and that the said court, hereafter to be held in Charleston, under and by virtue of this Act, shall have all and every the powers, jurisdictions and authorities

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whatever, in as full and ample manner as the said court hath or had at any time hitherto held, used or exercised, before such discontinuance as aforesaid.

II. *And be it also enacted* by the authority aforesaid, that all actions, suits, pleas, and other judicial proceedings whatsoever, commenced, pleaded, returned, depending, or having day, in the said court, previous to the said last return day, or bearing teste as of that day, shall be revived and continued, and be good and effectual in law, to all intents and purposes, as if the said court had been actually kept and held in Charleston at the said last return day ; any law, custom or usage to the contrary thereof notwithstanding

III. *And be it further enacted* by the authority aforesaid, That the sheriffs of the several districts shall return, on the third Tuesday in March next, all such writs and other process as could have been returned by them, if the court had been held before for that purpose in Charleston ; and that the said returns shall be valid and effectual in law, as if the same had been made on the said ninth day of December past ; and the court shall likewise proceed, on the third Tuesday in March, to draw a jury for the ensuing court.

IV. *And whereas*, the holding of the courts of general sessions and of common pleas in Charleston, in the month of January, at which time the Legislature is commonly sitting in General Assembly, hath been found to be inconvenient on that account ; *Be it enacted* by the authority aforesaid, That the court of general sessions, heretofore held in Charleston on the first Tuesday in January, shall hereafter be held on the third Tuesday in February ; and that the court of common pleas heretofore held on the second Tuesday in January, shall be held on the fourth Tuesday in February ; and the return day of the said court shall be on the first Tuesday in January, instead of the second Tuesday in December ; any former law to the contrary thereof in any wise notwithstanding.

V. *And whereas*, the Acts passed in the years one thousand seven hundred and seventy-eight, and one thousand seven hundred and eighty-two, authorizing any one of the judges to hold the courts in the district of Charleston, have expired ; *Be it therefore enacted* by the authority aforesaid, That in future, it shall and may be lawful for any one of the judges of the courts of general sessions and common pleas of this State, to hold and preside in any of the courts of general sessions and common pleas for the district of Charleston ; and each judge is hereby empowered to do all such acts and things, relative to the said office of judge in such courts, as fully and effectually as such judge can or may do in any of the circuit courts of this State ; any law, usage or custom to the contrary thereof notwithstanding.

VI. *And be it further enacted* by the authority aforesaid, That all proceedings which have been heretofore had in the courts of general sessions of the peace and common pleas, since the expiration of the aforesaid law, wherein only one judge has presided, are hereby confirmed, and declared legal and valid, to all intents and purposes whatsoever.

VII. *And be it further enacted* by the authority aforesaid, That in case, by any unavoidable accidents to the judges, either of the said courts in the district of Charleston shall fail to be held at the times respectively appointed for holding the same, the proceedings shall not be thereby discontinued, but the sheriff of the district, or the clerk of such court respectively, for the time being, shall and may adjourn the said court *de die in*

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diem, not exceeding six days, until the said court shall meet; and in case the said court shall not meet and sit in six days as aforesaid, the said sheriff, or the clerk of the courts, respectively, shall adjourn the same to the next ensuing court day, to which time all causes then depending shall be continued over.

VIII. And *whereas*, doubts have arisen concerning the legality of drawing talesmen to supply the place of such grand jurors as do not appear at the courts of general sessions of the peace agreeably to summons; *Be it therefore enacted* by the authority aforesaid, That all talesmen who have been heretofore drawn, and have served, or who shall be hereafter drawn to serve as grand jurors, at any of the courts of general sessions of the peace, in any of the districts of this State, shall be deemed and taken as legal jurymen, as if they had been drawn originally to serve upon such juries.

IX. And *whereas*, by an Act for establishing a court of chancery, it is *enacted*, That every petition or suit, preferred to or instituted in the said court, shall be finally decided within one year after the same shall have been preferred or commenced, unless, upon application in full and open court in term time, and for special reasons to be assigned on account of the absence of material witnesses or of some of the parties, or any other equitable cause, the court shall think proper to extend the time, (not exceeding twelve months longer,) for the determination of the suit; and *whereas*, it has been found that the time limited by the said Act for the duration of suits is too short, and productive of inconvenience and expense, when some of the parties or witnesses are very remote from the State; *Be it therefore enacted* by the authority aforesaid, That the said courts shall have full power, on application in term time, and for special reasons to be assigned on, and of the absence of material witnesses, or of some of the parties, or any other equitable cause, to extend the time for the determination of such suit or petition, (not exceeding twelve months,) longer than the term allowed by the said recited Act.

In the Senate House, the seventh day of March, in the year of our Lord one thousand seven hundred and eighty-nine, and in the thirteenth year of the Independence of the United States of America.

D. DESAUSSURE, *President of the Senate.*

JACOB READ, *Speaker of the House of Representatives.*

No. 1454. AN ACT TO ESTABLISH A COUNTY AND COUNTY COURTS BETWEEN SAVANNAH AND SALUDA RIVERS, ABOVE THE OLD INDIAN BOUNDARY.

WHEREAS, the inhabitants of the new ceded lands, between Savannah and Saluda Rivers, above the Old Indian Boundary, as by their petition to the General Assembly is set forth, have experienced many inconveniences by being annexed to Abbeville county; which renders it necessary to establish the same into a separate county.

I. *Be it therefore enacted* by the honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That a county shall be laid off above the old Indian boundary, to be called and known by the name of Pendleton county,

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the lines and boundaries of which shall be as follows, namely:—beginning at Savannah river, and running along the old Indian boundary line, which divides it from Abbeville county, to Saluda river; thence up the said river to the new Indian boundary; thence along the said boundary line to Toogaloo river; thence down the said river and Savannah river, to the beginning; which said county shall be entitled to county courts, to be holden on the second Mondays in May, August, November and February; which courts shall hold, exercise and enjoy the several powers, jurisdictions and authorities, as are by law vested in the county courts of this State.

In the Senate House, the seventh day of March, in the year of our Lord one thousand seven hundred and eighty-nine, and in the thirteenth year of the Independence of the United States of America.

D. DESAUSSURE, *President of the Senate.*

JACOB READ, *Speaker of the House of Representatives.*

AN ACT FOR GRANTING TO THE CIRCUIT COURTS COMPLETE, ORIGINAL No. 1474.
AND FINAL JURISDICTION, AND FOR REGULATING THE SAME.

WHEREAS, the Act for establishing circuit courts, directing all writs and other process triable in the said courts, to issue from and be returnable to the court of common pleas in Charleston, has been found to be grievous and oppressive to great numbers of the citizens.

Preamble.

I. *Be it therefore enacted* by the honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That from and after the sitting of the several circuit courts next ensuing, the said circuit courts shall, and they are hereby declared to possess, and shall be capable of exercising, the same complete, original and final jurisdiction, as possessed and exercised by the courts of general sessions of the peace and of common pleas, now held in Charleston, unless otherwise directed by this Act, according to the customs, usages and practise of the said courts; any law, custom or usage to the contrary notwithstanding.

Original and final jurisdiction given to the circuit courts.

II. *And be it further enacted* by the authority aforesaid, That the said circuit courts shall, and they are hereby required to, be held at the several times and places, and for the number of successive days, exclusive of Sundays, as follows, that is to say:—at Georgetown for the district of Georgetown, and at Beaufort, for the district of Beaufort, (until the goal directed to be built at Coosawhatchee shall be erected, where the said courts shall be held at Coosawhatchee Bridge, for the said district of Beaufort,) on the fifth days of April and November, for six days each; at Greenville, for the district of Cheraw, and at Orangeburgh, for the district of Orangeburgh, on the fifteenth days of April and November, also for six days each; at Camden, for the district of Camden, and at Cambridge, for the district of Ninety-six, on the twenty-sixth days of April and November, for ten days each; and in case either of the said days appointed for commencing the courts in the aforesaid districts respectively, shall happen to be Sunday, the said several courts shall begin to be held on the day following; *Provided always*, and be it *enacted* by the authority aforesaid, that in case there

When and where the courts of certain districts shall be held.

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shall be no court held on the days appointed by this Act, it shall and may be lawful for the clerk of the said court, or his deputy, to open and adjourn the same from day to day, until the court shall meet, or until the last day appointed by this Act, on which said last day, he shall adjourn the same until the next court, to which time all actions then depending shall stand over.

III. *And be it further enacted* by the authority aforesaid, That all judicial process, (executions excepted,) shall and may be issued from any of the courts of the respective districts, and to be tested by the clerk of the court from whence the same shall be issued, and the said process shall and may be served in any district of the State; but that all executions shall be issued from the court of the district in which verdict or judgment shall be obtained, and served by the sheriff of the district, or his deputy, where the defendant is found or resides; and the said clerks shall, and they are hereby entitled to, receive the same fees for their several respective services, as are now allowed by law to the clerks of the several county courts for their services, and no other; and shall, and they are also hereby entitled to, enjoy all the rights, privileges, profits and emoluments, to the said office belonging, or in any wise appertaining; and shall be subject to the same fines, penalties, forfeitures and disabilities, for misbehaviour, as the clerk of the court of Charleston is now subject; any law, custom or usage to the contrary notwithstanding.

IV. *And be it further enacted* by the authority aforesaid, That all process issuing from the said circuit courts respectively, shall be made returnable to the next court after the date of such process, and shall be returned by the respective sheriffs into the clerk's office of the said court, four days previous to the meeting of the same; and all pleadings thereupon shall be made up at such court, and be ready for trial at the next circuit court after.

V. *And be it further enacted* by the authority aforesaid, That the several clerks of the district courts now in office, or who shall hereafter be appointed, shall enter into bond with three good and sufficient surities, to be approved by the Governor and Commander-in-chief, in the sum of two thousand pounds, for the just and faithful discharge of their duty; which bond shall be made payable to the treasurers of the State for the time being, and after being recorded in the office of the court where such clerk is or shall be appointed to act, shall be deposited in the treasury; and in case any of the clerks shall be guilty of any malpractice in the execution of his trust, the Governor and Commander-in-chief for the time being shall and may suspend and remove such clerk for such malpractice; and such clerk, with his surities, shall be liable to all damages sustained by any person or persons, in consequence of the malpractice committed by such clerk.

VI. *And be it further enacted* by the authority aforesaid, That it shall and may be lawful for the said several clerks, respectively, to appoint sufficient deputy or deputies, to execute their offices in case of absence or indisposition, and for whose conduct the said clerks shall be answerable; and the said clerks and their deputies shall take the oath of allegiance, and the following oath, in open court, and give the surity required above of them, previous to their entering upon their said several offices; and if any person shall take upon himself to act in any of the said offices, without being duly qualified as aforesaid, he shall forfeit and pay a sum not exceeding five hundred pounds, to be recovered by any person who shall sue for the same.

Execution, and
other process,
how to issue
and run.

Clerk's fees.

Process, when
returnable.

Clerks to give
bond.

May appoint
deputies.

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The Oath of the Clerk or his Deputy.

I, A B, do solemnly swear or affirm, (as the case may be,) that I will well and faithfully do and perform the several duties enjoined me by laws now passed, or which shall hereafter be passed, as clerk, or deputy clerk, of the district court of ——— according to the best of my knowledge and ability; that I will make a true and perfect entry and record of all orders and proceedings of the said court, without fraud or deceit; and that I will not take any other or greater fees than such as are allowed by law. So help me God.

Oath.

Whereupon, the said clerks and their deputies shall make a fair entry of their commissions and deputations in the record books of their respective district courts, and shall make also an entry of the day on which they shall have so respectively qualified.

VII. *And be it further enacted* by the authority aforesaid, That none of the clerks of the said courts, or their deputies, nor either of them, shall sit as a justice in a county court, or act as an attorney or solicitor therein, or in any other court; and the said clerks or their deputies shall, and they are hereby obliged to, reside at the place where the court is usually held in their respective districts.

Clerk not to act as justice or attorney.

VIII. *And be it further enacted* by the authority aforesaid, That none of the fees allowed by law shall be payable by any person whatsoever, until there shall be produced to the person owing or chargeable with the same, an account in writing, if demanded, containing the particulars of such fees, signed by the sheriff, clerk or other officer to whom such fees shall be due, or by whom the same shall be chargeable respectively; in which said bill or account shall be expressed, in words at length, every fee for which any money is or shall be demanded; and the officer receiving such fee shall give a receipt for the same, if required; and a list of fees shall be hung up in some conspicuous place in the said respective offices.

Fees.

IX. *And be it further enacted* by the authority aforesaid, That all and every person or persons shall and may, at all times of the day, from nine o'clock in the morning till four o'clock in the afternoon, (Sundays excepted,) have free access to any of the clerk's offices in the respective districts; and that every person shall pay to the clerks for each search for every docketed judgment, six pence.

Office hours.

X. *And be it further enacted* by the authority aforesaid, That this Act shall not extend to any suits or actions which have been commenced, or which shall have day in any of the said courts, before the sitting of the several courts next ensuing in their respective districts, but that all such actions and suits shall and may be proceeded in and determined in the same manner as if this Act had never been made.

This Act not to extend to suits already commenced.

XI. *And whereas*, great damages and mischiefs happen, as well to persons in their lifetime, but oftener to their heirs, executors and administrators, and also to purchasers and mortgagees, by judgments entered upon record in the clerk's office in Charleston, against the persons who are defendants, by reason of the difficulty there is in finding out such judgments; for remedy whereof, *Be it enacted* by the authority aforesaid, That the clerks of the several district courts of common pleas in this State, (Charleston district excepted,) shall, on the the fifteenth day of January next ensuing, and so on the fifteenth day of every January thereafter, and on the fifteenth day of June, which will be in the year of our Lord one thousand seven hundred and ninety, and so on the fifteenth day of every June thereafter, make out, or cause to be made out, and put into an alphabetical

Abstract of judgments to be recorded.

A. D. 1789.

Acts relating to Courts.

docket, by the defendants's names, which said docket shall be officially subscribed by the clerks of such respective court, and sealed with the seal thereof, a particular account of all judgments entered in the said respective courts, for the terms immediately preceding the days mentioned above for the returns of the judgments as aforesaid; and the docket mentioned as aforesaid shall contain the name and names of the defendant and defendants, his, her and their place or places of abode, and title, trade or profession, (if any such be in the record of the said judgment,) and the debt, damages and costs recovered thereby, and in what district the respective actions were laid, and the number roll of the entry thereof; which said abstract of judgments shall be transmitted by the several clerks of the said several districts, to the clerk of the court of common pleas in Charleston, to the end that the same may, by the clerk of the court of common pleas in Charleston, be entered of record and fairly copied into books to be kept for that purpose, which the said clerk is hereby directed to do.

Penalty.

XII. *And be it further enacted* by the authority aforesaid, That if any of the clerks of the courts aforesaid shall omit or neglect to do his duty in the premises, he shall forfeit and pay the sum of two hundred pounds, the one moiety to the party or parties aggrieved, and the other moiety to him or them who shall sue for the same in any of the district courts of this State.

XIII. *And be it further enacted* by the authority aforesaid, That the clerk of the court of Common Pleas in Charleston, shall docket all judgments obtained in the court of Common Pleas in Charleston, in Charleston district, in the same form and manner as is above directed and prescribed for him to docket the abstract of judgments returned him from the clerks of the other courts.

Judgments not docketted, of no avail, except in the district.

XIV. *And be it further enacted* by the authority aforesaid, That no judgment not docketted and entered in the books of the clerk, at the seat of government, shall effect any property, real or personal, as to purchasers or mortgagees, or have any preference against heirs, executors or administrators in their administration of their ancestors, testators or intestates estates, except the property real and personal within the particular district where such judgment shall be entered up.

Motion for new trial.

XV. *And be it further enacted* by the authority aforesaid, That nothing in this Act shall extend, or be construed to extend, to prevent any persons who shall think themselves aggrieved by any proceedings in the said district courts, from moving for a new trial or arrest of judgment, under such restrictions and in such manner as the judges may think proper to establish by the rules and orders of court.

Appeals.

XVI. *And be it further enacted* by the authority aforesaid, That in case any person or persons shall think themselves aggrieved by the judgment or sentence of the justices of the county court, or any person or persons possessing the powers and authorities of Ordinary, it shall and may be lawful for such person or persons to enter an appeal from such judgment or sentence to the court of Common Pleas of the district in which such judgment or sentence shall be given; *Provided*, the said appeal be entered in the same county court in which the judgment or sentence shall be given, or within twenty days after judgment or sentence by the Ordinary, where no county courts are established, proof being made, to the satisfaction of the said Ordinary, of the adverse party having notice thereof; and the said court of Common Pleas shall hear and determine the said appeals, according to the customs, usage and practice in cases of appeals from the county courts.

Acts relating to Courts.

A. D. 1790.

XVII. *And be it further enacted* by the authority aforesaid, That nothing herein contained shall be construed to extend to displace any of the persons who are now clerks of the circuit courts, they giving security as this Act directs.

In the Senate House, the thirteenth day of March, in the year of our Lord one thousand seven hundred and eighty nine, and in the thirteenth year of the Independence of the United States of America.

D. DESAUSSURE, *President of the Senate.*

JACOB READ, *Speaker of the House of Representatives.*

AN ORDINANCE TO PROLONG THE TIME OF THE SITTING OF THE COURT No. 1476.
OF COMMON PLEAS, NEXT NOVEMBER, AT CAMBRIDGE; AND TO OBLIGE SHERIFFS AND GOALERS OF THE SEVERAL COUNTIES WHERE COURTS ARE HELD, TO RECEIVE ANY PRISONERS WHICH MAY BE COMMITTED TO THEIR CHARGE.

WHEREAS, from the increase of the business and suits pending in the court of Common Pleas, in the district of Ninety-Six, it is become necessary to prolong the time for holding that court;

I. *Be it ordained* by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the judge who shall preside in the courts of General Sessions and Common Pleas at Cambridge, next November, shall and may, and he is hereby authorized and empowered to, hold the said courts, and to adjourn *de die in diem* until the business of the said courts shall be completed; *Provided nevertheless*, that the said sitting shall not exceed a longer time than twenty-eight court days.

II. *And be it further ordained* by the authority aforesaid, That every one of the judges, at the next April court, may draw as many several juries as shall be thought wanting, to try all such causes as shall be at issue in November next, at Cambridge, and to make such other arrangements for the expediting the said business, as he in his discretion shall think proper; *provided*, that no jury shall be detained longer than one week at the said court, unless such jury shall not have agreed on their verdict.

III. *And be it further ordained* by the authority aforesaid, That each and every sheriff and goaler to whom the custody of any district or county goal within this State has been or shall be committed, is hereby authorized and required to receive into, and safely keep in such his goal, until delivered by due course of law, any person or persons who shall be committed thereto by a warrant signed by any judge or justice of the United States, or of this State, under the penalty, for such refusal, of fine or imprisonment, or both, as may appear proper in the discretion of the court.

In the Senate House, the twentieth day of January, in the year of our Lord one thousand seven hundred and ninety, and in the fourteenth year of the Independence of the United States of America.

D. DESAUSSURE, *President of the Senate.*

JACOB READ, *Speaker of the House of Representatives.*

A. D. 1791.

Acts relating to Courts.

No. 1490. AN ACT TO ESTABLISH A COURT OF EQUITY WITHIN THIS STATE.

Preamble.

WHEREAS, by the Constitution of this State, it is declared that the judicial power shall be vested in such superior and inferior courts of Law and Equity as the Legislature shall from time to time direct and establish : and *whereas*, it is expedient that a court of Equity, with adequate powers, be established in this State :

Former laws continued.

I. *Be it therefore enacted* by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the laws now of force for establishing and regulating the court of Chancery within this State, be, and they are hereby declared to be and continue, of force in this State, until altered or repealed by the Legislature thereof ; subject, nevertheless, to such alterations, amendments and restrictions, as are hereinafter directed.

Courts, when to sit.

II. And *whereas*, great inconveniences have been experienced in the remote parts of the State, on account of the court of Chancery having been hitherto held in one part of the State only ; in remedy thereof, *Be it enacted*, That all future sittings of the court of Equity, for the full and solemn hearing of causes, shall be held at the times and places hereinafter directed, that is to say : at Columbia, for all causes wherein the defendant shall reside in Camden, Orangeburgh or Cheraw districts, on the fifteenth days of May and December ; at Cambridge, for all causes wherein the defendant shall reside in the district of Ninety-Six, on the fifth days of May and December ; and at Charleston, for all causes wherein the defendant shall reside in either of the districts of Charleston, Beaufort or Georgetown, on the second Monday in March, the second Monday in June, and the third Monday in September ; and the same days in every succeeding year ; and that the court shall continue to sit from day to day, (Sundays excepted,) at Columbia and Cambridge, respectively, until all the causes which shall be brought before them shall be heard ; *provided*, the time of their sitting shall not exceed six days at each place ; and at Charleston, till all the business ready for the said court shall be heard.

Testimony to be taken in open court.

III. And *whereas*, it will be conducive to the more perfect investigation of truth, that the testimony of witnesses be taken in open court, in presence of the parties ; *Be it therefore enacted* by the authority aforesaid, That the examination of all witnesses who may be called upon to give evidence in the said court, shall be taken by word of mouth, in open court, subject to such regulations and exceptions as the said court may from time to time order and direct.

Master and commissioners to give bond.

IV. *And be it further enacted* by the authority aforesaid, That the master of the court of Equity for the district of Charleston, Georgetown and Beaufort, shall give good and sufficient security, to be approved of by the Governor or Commander-in-Chief for the time being, for the faithful discharge of his duty, in the sum of five thousand pounds sterling ; which said bond, and any other bond to be given by the commissioners to be appointed by virtue of this Act, shall be deposited in the office of the Secretary of the State, and be liable to be sued on by any party aggrieved by the misfeasance or default of the said master, or any of the said commissioners, respectively.

Comm'rs to be appointed.

V. *And be it enacted* by the authority aforesaid, That there shall be, in each and every of the districts aforesaid, one commissioner, who shall be commissioned and appointed by the Governor or Commander-in-chief for the time being, during good behavior, and who shall give security, to be approved of by the Governor, in the sum of one thousand pounds, well

Acts relating to Courts.

A. D. 1791.

Their duties.

and faithfully to administer his office, whose business it shall be to file and keep all bills, answers and papers whatever, relating to any cause depending in any of the said districts, respectively; swear and examine all witnesses, where necessary or ordered by the court, upon interrogatories and cross-interrogatories, who may be brought before any of them, touching any matter or thing depending or to be commenced in any of the said several and respective districts; swear defendants to answers; take recognizances and affidavits; and to do and perform all other matters and things which are usually done either by the master or register of said court, previous to the hearing of any cause: *Provided always*, that where it may be necessary to examine aged, sick or infirm persons, or witnesses out of the State, then, and in every such case, it shall and may be lawful for the said court to issue out one or more commission or commissions to examine the said witnesses upon interrogatories, whose depositions, when taken, shall be read in evidence in any of the districts within this State.

VI. *And be it further enacted* by the authority aforesaid, That the said commissioners, in their said several and respective districts, shall attend at the sitting of every court to be held in and for the said several districts, and shall there take and enter down orders and minutes thereof, and make up and report upon all matters and things referred to them by the said court, and shall also make all sales under the decree of the said court.

VII. *And be it further enacted* by the authority aforesaid, That the said commissioners, respectively, shall be entitled to receive for their services aforesaid, the same fees, perquisites and emoluments as are or may be fixed and established by law for the master or register of said court, for similar services. Their fees.

VIII. *And whereas*, in cases under the value of one hundred pounds, and in cases which may not be litigated, it may be unnecessary to proceed by bill and answer in the said court; *Be it therefore enacted* by the authority aforesaid, that in all such cases it shall and may be lawful for the parties complaining, to present his or their petition to the said court, on oath, setting forth the true nature of the case, or sum really due; a copy of which said petition shall be served on the opposite party, at least thirty days before the sitting of the court, with notice thereon to appear at a certain day in court, in order to answer, if necessary, the contents of said petition: and if the party so served with a copy of said petition, shall not appear at the time and place in the said notice mentioned, or, if appearing, shall not offer some substantial defence, then the said court shall proceed to make such order or decree therein as to justice and equity shall appertain; *Provided always*, that if the defendant or defendants should appear at the return of said petition, and shew sufficient reasons to the said court, on oath, for going into a more ample investigation of the case, then and in every such case, the said parties shall and may be at liberty to go into the examination of witnesses, to prove and substantiate their respective allegations, as in other cases. Proceeding by petition.

IX. *And be it further enacted* by the authority aforesaid, That the judges of the said court are hereby authorized and required to make and establish all such rules, orders and regulations as may be necessary for the better and more effectually carrying into execution the terms of this Act, for the benefit of the citizens of this State.

X. *And be it further enacted* by the authority aforesaid, That it shall and may be lawful for any one of the judges of the said court, to hear all motions, and to make all orders necessary in any cause, previous to the hearing and making the final decree.

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Acts relating to Courts.

XI. *And be it further enacted* by the authority aforesaid, That the judges shall cause the principal facts and reasons on which they found their decree in each cause, to appear upon record.

XII. *And be it further enacted* by the authority aforesaid, That suits in equity shall not be sustained in any case where plain and adequate remedy can be had at common law.

XIII. *And be it further enacted* by the authority aforesaid, That all suitors and defendants in the court of Equity, may do their own business, without application to any counsellor or solicitor of the court.

XIV. *And be it further enacted* by the authority aforesaid, That each and every of the judges of the court of Equity shall ride the circuit, unless prevented by sickness or unavoidable accident.

In the Senate House, the nineteenth day of February, in the year of our Lord one thousand seven hundred and ninety-one, and in the fifteenth year of the Independence of the United States of America.

DAVID RAMSAY, *President of the Senate.*

JACOB READ, *Speaker of the House of Representatives.*

No. 1491. AN ACT TO AMEND THE SEVERAL ACTS FOR ESTABLISHING AND REGULATING THE CIRCUIT COURTS THROUGHOUT THIS STATE.

WHEREAS, the several Acts establishing and regulating Circuit Courts within this State, require amendment; therefore,

Powers of the
superior courts
of law.

I. *Be it enacted*, by the honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the superior courts of law throughout this State, shall have, hold, use and exercise such jurisdictions and powers as are vested and lodged in them respectively, by virtue of the Acts of Assembly framing and constituting them; the court in each district possessing and being capable of exercising the same complete, original, and final jurisdiction, as is possessed and exercised by the courts of general sessions of the peace, and of common pleas, heretofore established and held in Charleston district, according to the former usage, practices and customs of the said courts, except where altered by law, and in points of practice by the rules of court, from time to time made by the judges thereof.

Courts, when
to be held.

II. *And be it further enacted* by the authority aforesaid, That from and after the next sitting of the said courts through the present districts of the State, agreeably to the existing laws, the superior courts of general sessions and common pleas shall be held at the times and places hereinafter directed, (that is to say,) the courts of general sessions in and for the district of Charleston, shall be held at the city of Charleston, for the trial of all offences committed within the said district, on the third Monday in January, May and September, in each year, and shall continue to sit until all the business ready for trial be dispatched, or until the end of the term: And the courts of common pleas in and for the district of Charleston, shall be held at the city of Charleston, for the trial and decision of all civil pleas or actions therein legally depending, on the fourth Monday in January, May and September, in each year, and shall continue

Acts relating to Courts.

A. D. 1791.

to sit until the business ready for trial or hearing be dispatched, or until the end of the term : And the courts of sessions and common pleas for the other districts, shall hold pleas of all causes, civil and criminal, within their respective limits, as follows, (that is to say,) at Coosawhatchie and Georgetown, on every first day of April and November ; at Orangeburgh, on every eighth day of November and tenth day of April ; and at the Cheraws, on every tenth day of April and November ; at Cambridge, on every sixteenth day of November and eighteenth day of April ; and at Camden, on every nineteenth day of April and November ; in Pinckney district, at such place as may be appointed by the commissioners hereinafter nominated, on every first day of April and November ; and in Washington district, at such place as may be appointed by the commissioners hereinafter nominated, on every tenth day of April and November ; *provided*, that if any of the above mentioned days shall happen to be on Sunday, the said courts shall begin on the day following ; and each of the said courts shall sit from day to day, not exceeding four days at Coosawhatchie in November and six days in April, and not exceeding six days in Orangeburgh, Pinckney and Washington, and ten days in Ninety-Six district, in April and November, and not exceeding six days at Georgetown and Cheraws, and ten days at Camden, in April and November, or until the business of the said courts, respectively, shall be dispatched, if all the business can be determined in that time, but if it cannot, then what shall remain unfinished shall be continued or adjourned over to the next court.

III. *And be it further enacted* by the authority aforesaid, That the courts of general sessions of the peace, of oyer and terminer, assize and general goal delivery, shall have cognizance and jurisdiction of all pleas criminal, where the offence shall be committed within the limits of the respective districts, and the said courts of common pleas, of all civil pleas or actions, in those of the following districts wherein the defendants may reside, be arrested or taken, by process or warrant, and the same shall be heard, tried and determined at the said courts, respectively, that is to say, the said courts at Charleston, of all offences committed within that district, and of all such pleas or suits civil, in which the defendants shall reside, be arrested or taken, in Charleston district, which district shall include all places within the south branch of Santee river and Combahee river and the sea, including the islands, by a line drawn from a place called Nelson's ferry, directly towards Matthew's bluff, on the Savannah river, until it intersects the swamp at the head of the south branch of Combahee river : The said courts at Coosawhatchie, of all such offences and pleas within Beaufort district, which shall include all places to the southward of Combahee river and the swamp aforesaid, between the sea (including the islands) and the line to be continued from the main swamp aforesaid, to Matthews's bluff, on the Savannah river : The said courts at Orangeburgh, of all such pleas, civil and criminal, within Orangeburgh district, which shall include all places between the Savannah, Santee, Congaree, and Broad rivers, the said line from Nelson's ferry to Matthews's bluff, and a direct line to be run from Silver bluff, on the Savannah river, to the mouth of Rocky creek, on Saluda river, and thence in the same course to Broad river : The said courts at Georgetown, of all such pleas, criminal and civil, within Georgetown district, which shall include all places between Santee river, the sea, (including the islands) and the line which divides Saint Marks's from Prince Frederick's parish, which shall be continued in the same course across Pedee to the North Carolina boundary :

A. D. 1791.

Acts relating to Courts.

The said courts at the Cheraws, of all such pleas, criminal and civil, within the Cheraw district, which shall be bounded by the State boundary and the line dividing Saint Marks's and Prince Frederick's parishes, continued till it intersects the northern State line, and by Lynch's creek and a line drawn from the head of that creek upon a course north thirty degrees west, until it intersects the State line: The said courts at Camden, of all pleas, criminal and civil, within Camden district, which shall include the counties of Lancaster, Kershaw, Claremont, Clarendon, Richland and Fairfield: The said courts in the district of Pinckney, of all pleas, criminal and civil, within the district of Pinckney, which shall include the counties of Chester, Spartanburgh, Union and York, except that part of York county laying on the east side of the Catawba river, and on the South east side of Sugar creek, which shall remain in Camden district, and be annexed to Lancaster county: The said courts at Cambridge, of all pleas, criminal and civil, within the district of Ninety-six, which shall include the counties of Abbeville and Edgefield, Laurens and Newberry: The said courts in Washington district, of all pleas, criminal and civil, within the district of Washington, which shall include the counties of Pendleton and Greenville.

Judges, how to
be appointed,
and their
powers.

IV. *And be it further enacted* by the authority aforesaid, That the chief justice and associate judges of this State for the time being, chosen by the Legislature, and in case of the sickness or absence of any of them, any person for that time commissioned and appointed for that purpose by the Governor or Commander-in-chief of this State, shall be judges of the courts hereby established; and they, or any one of them, shall and may have, hold and exercise the same powers and authorities, respectively, touching all matters within the limits of their jurisdiction aforesaid, as the said courts have or may exercise, under and by virtue of the laws and constitution of this State, and the constitution of the United States: And the said courts may, from time to time, make such just and reasonable rules and orders for the more regular and convenient conducting and effectual dispatch of business therein, as to them shall seem necessary and proper: And in case there shall be no court held on the days appointed by this Act, it shall and may be lawful for the clerk of any of the said courts respectively, or his lawful deputy, to open and adjourn the same from day to day, until the courts shall meet, or until the last day appointed for holding the same, on which said last day, he shall adjourn the same until the next court, to which time all actions then depending shall stand over.

Process, how
to issue.

V. *And be it further enacted* by the authority aforesaid, That all judicial process (executions excepted) shall be tested in the name of the chief justice of the State, and in case of the vacancy of the chief justiceship, in the name of the senior associate judge, and shall and may be issued from and signed by the clerks of any of the said courts, under the seal of the court; and the said process shall and may be served in any district of the State; and in all cases where there shall be two or more defendants in one action, residing in different districts, it shall be at the option of the plaintiff to try his cause in the district where any one of the defendants shall reside, be arrested or taken; but all executions shall be issued from the court of the district in which verdict or judgment shall be obtained, and shall be tested in the name of the chief justice; and in case of the vacancy of the chief justiceship, in the name of the senior associate judge, and signed by the clerk thereof, and served by the sheriff of the district,

Acts relating to Courts.

A. D. 1791.

or his deputy, where the defendant is found or resides, or where his property may be found.

VI. *And be it further enacted* by the authority aforesaid, That all writs or mesne process and executions that shall be issued by or from the court of common pleas, in and for the district of Charleston, shall be made returnable to the court thereof, on the first Tuesday in January, the fourth Tuesday in March, and the third Tuesday in August; and all writs and executions that shall be issued by or from the courts in the other districts, shall be made returnable to the clerk thereof, thirty days next before the sitting of the court to which they are made returnable; and the sheriffs shall make certain return thereof, on the respective days hereby directed, to the said clerks, whose duty it shall be safely to deliver them to the plaintiff's attorneys in the several suits so commenced and prosecuted; and the plaintiff shall, on the return of such writs, proceed to file his declaration during the sitting of the court next after the writ is returnable, or at any time after, until the next succeeding court, and shall take judgment by default, against the defendant in said suit, unless an appearance has been regularly entered by the defendant's attorney, with the clerk of the court, during the sitting of the said court; and the defendant, if he puts in an appearance as aforesaid, shall and may put in his plea, in writing, with the clerk of the said court, within one month after the declaration is filed, or judgment may be taken by default.

Writs, when returnable, &c.

VII. *And be it further enacted* by the authority aforesaid, That the sheriff of each of the said districts shall be obliged, at the expiration of his office, to turn over to the succeeding sheriff all such writs and process as shall remain in his hands unexecuted, in the manner prescribed by the Act "for establishing courts, building goals and appointing sheriffs and other officers, for the more convenient administration of justice in this (then) Province," passed the twenty-ninth day of July, one thousand seven hundred and sixty-nine; and also all executions whereon he hath not made actual sale of the property levied by virtue of such executions to the amount of the demands of the plaintiffs in such suits.

Sheriff to turn over unfinished business to his successor.

VIII. *And be it further enacted* by the authority aforesaid, That no sheriff of any district or county or city, no master or commissioner in equity, no commissioner of the loan office, or treasurer, shall be concerned or interested, directly or indirectly, in the purchase or acquisition of any property sold by them, respectively, by virtue of or in obedience to any process, execution, order of court, or law; and if any such officer shall presume to be concerned or interested in any such purchase or acquisition, at any sale by him made, he shall, on conviction thereof, be deprived of his office, and the purchase so made shall be utterly void and of no effect.

Officer not to purchase at sales made by himself.

IX. *And to prevent unnecessary delays and private sales, to the prejudice of honest debtors and creditors; Be it further enacted* by the authority aforesaid, That no district sheriff shall sell any property in any private or retired part of his district, but he shall sell the same on the first Monday (and if the sales commenced on that day cannot be concluded on the same, they may be finished on the day following, at the same hours,) in each month, between the hours of eleven and three, in Charleston district, and eleven and five in the other districts, at such places in each and every district as the judges of the court of common pleas shall appoint, and at no other time or place whatsoever; and all notices of sale by the sheriff of Charleston district, shall be published three times in the State gazette, or any other gazette, and at three notorious public places in the said district;

Sales, how and when to be made.

A. D. 1791.

Acts relating to Courts.

and the sheriffs for all other districts in this State shall publish all notices of sale at the court house of the district, and two other notorious places in the district, and in the most public places of the neighborhood from which the property was taken.

Sheriff to make return. X. *And be it further enacted* by the authority aforesaid, That each of the said sheriffs shall be bound to make return of the executions lodged in his office, on oath, within ten days after the return day, with a full and particular account of the levies or sales by him made, and of the money in his hands.

Fees XI. *And be it further enacted* by the authority aforesaid, That at whatever stage any suit may cease or determine, the attornies, clerks and sheriffs shall have their fees taxed; and on non-payment thereof, execution may be issued against the party from whom they are due, and be lodged with the sheriffs of the respective districts, and returnable at the ensuing return day; and the sheriff, for his trouble in collecting such fees, shall be allowed a commission of two and one half per cent, to be paid by such defaulter.

Commissioners appointed. XII. *And be it further enacted* by the authority aforesaid, That Col. Edward Lacy, Col. William Farr, James Martin, Col. William Bratton, Baylis Earle, Esq., and William Smith, Esq., for Pinckney district, and Gen. Andrew Pickens, Col. Robert Anderson, Capt. Robert Maxwell, and Mr. John Bowen, Mr. James Harrison, Maj. John Ford, and John Hallum, for Washington district, shall be, and the same are hereby nominated and appointed, commissioners to agree for and superintend the building of goals and court houses in their respective districts, and for the purchase of land in such places, for the immediate erection of the said buildings, as the majority of the respective commissioners shall see most fit and convenient in each district; and that provision for building the said goals and court houses, and for the purchase of land necessary for the erection thereof, shall be provided by a general tax.

This Act, when to take effect. XIII. *And be it further enacted* by the authority aforesaid, That this Act shall not extend to any actions which shall be commenced before the eighteenth day of November next, but all such actions and suits may be proceeded in and determined in the same manner as if this Act had never been passed.

Ninety-Six district, unfinished business in it to be adjudicated. XIV. And for the speedy determination of the causes now depending in the district of Ninety-Six, according to its former boundaries, *Be it further enacted* by the authority aforesaid, That two of the judges of the superior courts of law shall be, and are hereby, authorized and directed to attend at Cambridge, in the months of April and November, at the times fixed for holding the courts in the said district, and shall hold the said courts of sessions and common pleas at the same time; one of whom shall preside in the court of general sessions, and the other in the court of common pleas; and the judge holding the court of common pleas shall, and he is hereby directed to, continue trying the causes at issue, and on the docket, day by day, during each of the said terms, for the space of fifteen days, if the business then at issue and ready for trial shall require so long a time for the dispatch thereof.

Sheriffs to be appointed in the new districts. XV. *And be it further enacted* by the authority aforesaid, That sheriffs and clerks shall be appointed immediately after the passing of this Act, (in the manner they are appointed for the other districts,) for the new districts hereby formed, and they shall perform all the duties, be liable to all the penalties, and enjoy all the emoluments, to which the sheriffs and clerks of

Acts relating to Courts.

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the other districts are liable or entitled; and they shall immediately enter upon the execution of their respective offices, so far as may be consistent with this Act; and the sheriffs of the said districts shall also form jury lists, agreeably to law, from the last tax returns for their respective districts, and shall lay the same before the judges who shall attend and hold the court at Cambridge in November next, who shall cause juries to be drawn in the manner prescribed by law; and the sheriffs of the respective districts shall summon the persons whose names are so drawn, to attend at the places where the courts shall be held in the said districts, in the month of April, one thousand seven hundred and ninety-two; and such jurors shall be liable to the same penalties for non-attendance as jurors now by law are subjected to; and the judges of the court of sessions and common pleas shall proceed to hold the courts within the new districts of Pinckney and Washington, on the first day of April and November, one thousand seven hundred and ninety-two, in Pinckney district, and on the tenth day of April and November, one thousand seven hundred and ninety-two, in Washington district, and on the days herein fixed in each succeeding year; and the said courts shall be courts of record, and all persons necessarily going to and attending on or returning from the same, shall be freed from arrests in any civil action.

XVI. *And be it further enacted* by the authority aforesaid, That when a prisoner shall be discharged, by reason of the non-attendance of the prosecutor, or on account of a bill presented against him being rejected by the grand jury, or by reason of an acquittal by the petit jury, such prisoner shall not be bound or liable to pay any charges which may have been incurred in his or her apprehension, detention or prosecution, but the same shall be paid out of the fines and forfeitures received by the proper officers of the court.

Prisoner acquitted, freed from costs.

XVII. *And be it further enacted* by the authority aforesaid, That whenever the judges who preside in the court of common pleas in Charleston, are about to draw jurors to be summoned for the next succeeding court, they shall draw, or cause to be drawn, in the manner prescribed by the jury law of this State, the names of twenty persons, in addition to those heretofore drawn, to serve in the court of common pleas: and the persons so drawn shall be summoned to attend, in the usual manner, and shall be entitled to all the privileges and benefits, and subjected to all the penalties, of other jurors; and out of the whole numbers drawn and summoned, two juries shall always be formed, whose duty it shall be well and truly to try all the issues with which they may be charged, and execute all the writs of enquiry which may be delivered to them, respectively.

Jurors.

In the Senate House, the nineteenth day of February, in the year of our Lord one thousand seven hundred and ninety one, and in the fifteenth year of the Independence of the United States of America.

DAVID RAMSAY, *President of the Senate.*

JACOB READ, *Speaker of the House of Representatives.*

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Acts relating to Courts.

No. 1492. AN ACT TO AMEND THE SEVERAL ACTS FOR ESTABLISHING COUNTY COURTS, AND FOR REGULATING AND AMENDING THE PROCEEDINGS THEREIN; AND FOR SUSPENDING THE COUNTY COURTS IN THE DISTRICTS OF ORANGEBURGH AND BEAUFORT; AND ASCERTAINING THE DUTIES OF JUSTICES OF THE PEACE THROUGHOUT THE STATE.

WHEREAS, experience has proved that the present mode of transacting business in the county courts, is unfavorable to the equal, impartial and steady administration of justice.

County courts
to be held by 3
judges.

I. *Be it therefore enacted* by the honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That county courts be, and are hereby, established and shall be held in the counties of Edgefield, Abbeville, Pendleton, Greenville, Laurens, Newberry, Spartan, Union, York, Chester, Fairfield, Richland, Lancaster, Kershaw, Claremont, Clarendon, Marlborough, Chesterfield and Darlington, on the days hereinafter appointed for each county respectively, (and county courts shall be held at no other time or place;) and the county courts hereby established shall be held and administered by three judges or justices of the county courts, to the trial of small and mean causes, and who shall be elected by a joint nomination of the Senate and House of Representatives, and be qualified as is directed in an Act entitled "An Act for establishing county courts, and for regulating the proceedings therein;" and if any vacancy shall happen by death, resignation, removal, or otherwise, the Governor or Commander-in-chief for the time being shall nominate and appoint other fit and proper person or persons to fill such vacancy, until the next meeting or sitting of the Legislature, when such appointment shall be annulled or confirmed; any two of whom shall have full power and authority to hear and determine all causes, matters and controversies, referred by law to their jurisdiction.

Powers of the
courts, when
and where to
sit, &c.

II. *And be it further enacted* by the authority aforesaid, That the judges of the county courts shall, at the several times and places appointed by law, hold, in their respective counties, courts twice in each year, for the trial of causes, matters and things, by law referred to their jurisdiction; which courts shall continue open and sit ten days, exclusive of Sundays, at each term, unless the business thereof be sooner finished; and shall hear and determine all causes, matters and controversies appertaining or in any wise belonging to their jurisdiction; and that there shall be two intermediate courts held in each county by one or more of the said judges; the business of which courts shall be confined to the granting of tavern licenses, appointing commissioners and overseers of roads and bridges, business relative to the poor of the county, and to the exercise of any other powers vested in them by law; the regulation of the police of their respective counties, when a judicial decision between individuals is not required or necessary; and that each of the said courts shall be held four days at each term, unless the business should sooner be finished; and that the courts be held for the respective counties herein mentioned, on the following days, to wit:—for the counties of Union and Richland, on the first Mondays of April and September; for the counties of Spartan and Fairfield, the second Mondays of April and September; for the counties of Pendleton and Chester, on the third Mondays of April and September; for the counties of Greenville, York and Marlborough, on the first Mondays of May and October; for the counties of Laurens, Lancaster and Chesterfield, on the second Mondays

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of May and October; for the counties of Newberry, Kershaw and Darlington, on the third Mondays of May and October; for the counties of Claremont and Edgefield, on the first Mondays of June and November; and for the counties of Clarendon and Abbeville, on the second Mondays of June and November.

III. *And be it further enacted* by the authority aforesaid, That the grand juries, in each of the said counties, shall have equal and concurrent jurisdiction in all cases whatsoever, arising in their respective counties, with the grand juries in the circuit courts; and where a bill of indictment shall be found by the grand jury in the county court, on any charge of a higher nature than the county court had cognizance of before the passing of this Act, the person indicted shall be referred for trial to the next court of sessions, to be held for the circuit court district in which the offence is said to have been committed, and the indictment and proceedings thereon shall be removed to the said court; and the judges of the said county court shall bind over all witnesses, either in behalf of the State or the party accused, to appear at the district court and give testimony at the time of trial; but if the bill of indictment shall not be found, the person accused shall be entitled to his release; and the county attorney shall be entitled to such fees for preparing such indictment as are taken by the Attorney-general on indictments found in the court of sessions of any district.

Grand jurors,
their powers,
&c.

IV. *And be it further enacted* by the authority aforesaid, That in each and every county where the county courts are established, no suit shall be brought by any writ or process returnable to any other court of law in this State, for any sum of money less than fifty pounds sterling, due on any judgment, bill, bond, note or account, liquidated and signed by the handwriting of the defendant, nor on any open account, for any sum less than twenty pounds sterling; and if any such suit or suits shall be brought contrary to the true intent and meaning of this Act, or to evade the operation of this Act, the same shall, on its appearing to the court, on motion of the defendant or his attorney, be dismissed at the plaintiff's costs; *Provided always nevertheless*, that nothing in this Act contained shall be construed to extend to prevent any person or persons from bringing his, her or their suit, action or actions in any of the cases aforesaid, in the circuit or district court, on any debt, duty, contract, note or account, made or entered into before the passing of this Act.

Jurisdiction
defined.

V. *And be it further enacted* by the authority aforesaid, That an appeal shall be granted in all cases where the judgment of the said court shall exceed the sum of ten pounds, on the party applying for the same entering into bond, with sufficient security, to prosecute the same with effect, agreeable to the terms required by the Act entitled "An Act for establishing county courts, and for regulating the proceedings therein;" passed the seventeenth day of March, in the year of our Lord one thousand seven hundred and eighty-five; any law, usage or custom to the contrary in any wise notwithstanding.

Appeal.

VI. *And be it further enacted* by the authority aforesaid, That in every cause, the plaintiff shall file his declaration on the first day of the court, which if he fail to do, the defendant or his attorney may serve the plaintiff or his attorney, personally, if present, or otherwise, by posting at the door of the court house, a rule to file his declaration, which if he fails to do within two days, on motion of the defendant, he shall be non-pross'd.

Declaration,
when to be
filed.

VII. *And be it further enacted* by the authority aforesaid, That the clerk and the sheriff, in each of the respective counties, shall be appointed,

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commissioned and qualified, in the same manner as has been heretofore used in the county courts ; but the sheriff shall continue in office for four years.

Tavern licenses.

VIII. *And be it further enacted* by the authority aforesaid, That it shall and may be lawful for the said courts to grant letters licenses for retailing of spirituous liquors, or keeping of taverns, at any court which may be held in each year; any law, usage or custom to the contrary notwithstanding.

Remedy for malpractice in office.

IX. *And be it further enacted* by the authority aforesaid, That when any person or persons shall be injured or aggrieved by the negligence, malpractice or misconduct in office of any clerk or sheriff of the county courts, such person or persons may move the court against such sheriff or clerk, giving a notice of two days of such intended motion to such clerk or sheriff, of such application, and of the grounds thereof, in writing; whereupon, the court shall forthwith give such order or judgment thereon as to justice doth belong.

Justices, how to be appointed, and their duties.

X. *And be it further enacted* by the authority aforesaid, That justices of the peace in each county shall be appointed as heretofore, not exceeding nine in number, and who shall continue in office for the space of four years, whose duty it shall be to hear and determine all causes, matters and controversies, to which, by law, they have heretofore been made competent; they shall hear and determine all actions for debt liquidated by bond, note or other writing, signed by the hand of the defendant, as far as five pounds, and all actions on open accounts, as far as three pounds, sterling; and when the judgment of any justice of the peace in this State shall be for any sum less than ten shillings, such justice shall not take or receive any fee or fees of office, or costs of suit, on such judgment; and that all suits in such parts of the State where county courts are established, for the recovery of debts not amounting to more than the sums aforesaid, shall exclusively be brought before a justice of the peace as aforesaid; but if either of the parties shall conceive him, her or themselves injured or aggrieved by the judgment, decree or sentence of any justice of the peace, where the debt or demand is for any sum above twenty shillings, such person or persons may pray an appeal to the first court which shall be held for the said county, and which appeal shall be granted to such person or persons, on giving sufficient security to prosecute such appeal to effect, or on failure thereof, to satisfy the costs and condemnation of the county court; and the said county court shall hear and determine said appeal; but no appeal shall be tried, unless two of the county court judges or justices, at the least, are presiding.

Powers of the judges.

XI. *And be it further enacted* by the authority aforesaid, That the judges of the county courts shall have all the powers and authorities vested in the justices of the county courts, by an Act entitled "An Act for laying off the several counties therein mentioned, and appointing commissioners to erect the public buildings."

Power of justices limited.

XII. *And whereas*, great mischiefs have arisen to the inhabitants of this State, from the power vested in justices of the peace to try causes which sound in damages; *Be it therefore enacted*, That no action of trespass, trover, detinue, slander or trespass, assault and battery, or other action arising merely from tort and not from contract, shall hereafter be cognizable by any justice of the peace in this State.

XIII. *And be it further enacted* by the authority aforesaid, That this Act shall not be construed to repeal any clause or clauses in the Act for establishing county courts and regulating the proceedings therein, nor any of the subsequent Acts of the General Assembly, for altering or amending

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the same, unless such clause or clauses shall be repugnant to or inconsistent with any clause or clauses of this Act.

XIV. *And be it further enacted* by the authority aforesaid, That it shall and may be lawful for any judge of the county court, who shall have taken the oaths prescribed by the constitution and this Act, to administer the oaths of office to the other judges of the court, and the justices of the peace, in the county in which he is a judge; and a record shall be made in the acts of court, of the due administration of the said oaths under this Act.

Oaths, how to be administered.

XV. *And be it further enacted* by the authority aforesaid, That it shall and may be lawful for any one judge of the county courts to try all summary process; any thing in this Act contained to the contrary thereof in any wise notwithstanding.

Sum Pro.

XVI. *And be it further enacted* by the authority aforesaid, That it shall and may be lawful for the judges of the county courts to hold the courts of their respective counties on the days to which they now stand adjourned; and the clerks of the respective courts may adjourn the court from day to day; and if no court shall be held and administered, all causes, matters and controversies then depending before any of the said courts, shall be, and are hereby, adjourned over to the next court prescribed to be held by virtue of this Act.

County courts, when to be held, &c.

XVII. And to prevent unnecessary and private sales, to the prejudice of the honest debtor and creditor; *Be it further enacted* by the authority aforesaid, That no sheriff shall sell any property in any private or retired part of his county, but he shall sell the same on the first Saturday in every month, at noon, at the court house of the county, except the judges should direct other places for the sale; and except in Richland county, in which the sale shall be held at the State House; and the sheriffs shall publish all notices of sale, at the court house of the county, and two other notorious places in the said county, and in the most notorious place of the neighborhood from whence the property was taken, and also in one of the Gazettes, if the Gazette is published in or near the county.

Sheriff's sales.

XVIII. *And be it further enacted* by the authority aforesaid, That it shall not be lawful for any person exercising the office of a justice of the peace within this State, to keep any tavern, or to retail spirituous liquors, nor shall any license for retailing spirituous liquors be granted to any person exercising the office of a justice of the peace, nor to any person or persons in his house or family, or for his emolument; and if any person or persons shall offend against the true intent and meaning of this Act, he shall forfeit and pay the sum of fifty pounds to any person or persons who will inform or sue for the same, and be forever thereafter rendered incapable of serving in the office of a justice of the peace in this State.

Justices prohibited from keeping tavern, &c.

XIX. And *whereas*, the majority of the inhabitants of the counties where county courts are established within the districts of Orangeburgh and Beaufort, are desirous that the said courts should not be continued among them; *Be it further enacted* by the authority aforesaid, That the said courts be, and they are hereby, suspended, and all records relative to the business of ordinary in such county courts, shall be transferred over and kept by the ordinary of the district in his office; and all records relative to the other judicial business in the said county courts, shall be transferred over and kept by the clerk of the circuit court of the district in his office; and all other records of the said county courts shall be transferred over and kept by the register of mesne conveyances of the said district in

County courts discontinued in Orangeburgh and Beaufort.

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his office ; and all suits having been commenced in the county courts, shall be continued in the district court without being commenced *de novo* ; and all such records shall be of as full force and validity as if they had continued in the said county courts, and the same had not been suspended.

County courts,
when to be
held.

XX. *And be it further enacted* by the authority aforesaid, That the county courts shall be held in the counties hereinafter mentioned, on the days following, to wit : For the counties of Union and Richland, on the first day of January and June in every year ; for the counties of Fairfield and Spartan, on the twelfth days of January and June in every year ; for the counties of Chester and Pendleton, on the twenty-fourth days of January and June in every year ; for the counties of Greenville and York, on the fifth days of February and July in every year ; for the counties of Lancaster and Laurens, on the seventeenth days of February and July in every year ; for the counties of Newberry and Kershaw, on the twenty-eighth days of February and July in every year ; for the county of Claremont, on the eleventh days of March and August in every year ; for the county of Clarendon, on the twenty-fifth days of March and August in every year ; for the county of Edgefield, on the eleventh of March and the first day of September ; for the county of Abbeville, on the twenty-fifth days of March and the twelfth day of September ; for the county of Marlborough, on the first days of March and September ; for the county of Chesterfield, on the eleventh days of March and September ; and for the county of Darlington, on the twenty-second days of March and September in every year ; and if any of the said days shall fall on Sunday, then the said court shall meet and sit on the day following.

In the Senate House, the nineteenth day of February, in the year of our Lord one thousand seven hundred and ninety-one, and in the fifteenth year of the Independence of the United States of America.

DAVID RAMSAY, *President of the Senate.*

JACOB READ, *Speaker of the House of Representatives.*

No. 1503. AN ACT TO ESTABLISH A COUNTY AND COUNTY COURT IN THE DISTRICT OF KERSHAW.

WHEREAS, the inhabitants of Kershaw district, as by their petition to the Legislature is set forth, have experienced many inconveniences by being annexed to Lancaster, Claremont, Fairfield and Richland counties, which renders it necessary to establish the same into a separate county, agreeable to the Constitution :

I. *Be it therefore enacted*, by the honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the said district shall be, and is hereby, established as a county, to be called and known by the name of Kershaw county ; the lines and boundaries of which, till they are altered by the Legislature, shall be as follows, that is to say, beginning on the east side of the Wateree river, at Stark's ferry ; from thence by a line running to the ford of the Hanging-rock creek ; thence down Lick creek to Flat creek ; thence down that creek to big Lynch's creek ; thence down big Lynch's

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creek to Spivy's ferry or ford; thence to Carter's ferry or crossing place, in Claremont county; thence down the fork of Swift and Rafting creek; thence across the Wateree river to Spears's creek, in Richland county; thence up Spears's creek to the fork of Spears's and Raglin's creek; thence up Raglin's creek to John Daugherty's, on the twenty-five mile creek; from thence in a direct line to the mouth of Colonel's creek, on the Wateree river; and thence across the Wateree river to Starks's ferry, at the beginning; which said county shall be intitled to county courts, to be holden on the twenty-eighth day of February, the sixteenth day of April, the seventeenth day of July, and the fifteenth day of November, in every year; and the said courts shall hold, exercise and enjoy the several powers, jurisdictions and authorities as are by law vested in the county courts of this State.

II. *And be it further enacted* by the authority aforesaid, That John Simpson, Douglass Starke, Isham Moore, Philip Pearson, Thomas Ballard, Benjamin Waring, and Samuel Boykin, be, and they are hereby appointed, commissioners to survey the lines between the counties of Kershaw and Lancaster, and the lines between the counties of Kershaw and Claremont, and to report to the Legislature, at their next meeting, a plat of the aforesaid three counties, with remarks on the population, situation, and other circumstances necessary to be taken into consideration in forming the dividing lines of the said counties.

In the Senate House, the nineteenth day of February, in the year of our Lord one thousand seven hundred and ninety-one, and in the fifteenth year of the Independence of the United States of America.

DAVID RAMSAY, *President of the Senate.*

JACOB READ, *Speaker of the House of Representatives.*

AN ACT TO ALTER AND AMEND THE LAW RESPECTING JURIES; AND No. 1526.
TO MAKE SOME ADDITIONAL REGULATIONS TO THE ACTS FOR ESTABLISHING AND REGULATING THE CIRCUIT COURTS.

WHEREAS, the mode of drawing special juries, prescribed by the Act of the General Assembly of this State, passed on the nineteenth day of July, in the year of our Lord one thousand seven hundred and sixty-nine, has, by experience, been found inadequate to that fair and impartial administration of justice which is to be expected in every case where special juries are drawn, and it has sometimes so happened that special juries have been drawn entirely out of the number of those whose names were given in or delivered to the court by one of the parties in controversy; for remedy whereof,

Preamble.

I. *Be it therefore enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That it shall and may be lawful for the court of Common Pleas, in the several districts throughout this State, in any civil action the value in dispute is equal to or exceeds fifty pounds sterling money, or on application by either party, plaintiff or defendant, in any case, at his, her, or their own expense, or with the consent of

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how to be
formed, &c.

both parties in any action, to order a special jury to be struck for the trial of the said cause, at the court to be holden in the district where such cause shall be triable, which shall be done in the following manner; that is to say, each party, plaintiff and defendant, shall give in or deliver to the other, the names of any eighteen persons, having the qualifications of grand jurors, whom he, she, or they would choose for jurors in the case controverted, out of which lists each party shall strike out the names of such eight persons whose names were given in by the other party, as he, she, or they may choose to reject, and out of the ten persons remaining on each list, each party shall mark or name such ten persons on the list of the adverse party, as he, she, or they may think fit to have summoned as tales men; and the twenty men who shall be chosen for jury men and tales men, as before directed, shall be summoned by the sheriff of the district in which the cause is to be tried, at least six days (or any shorter time, if the parties shall consent thereto,) before the meeting of the court in the said district, to attend on the said court as a special jury, and as tales men, if occasion shall require; and if all the twelve men who shall be summoned for the special jury shall not attend at the court, and at the time to which they shall be summoned, then out of the number of those who shall be summoned for tales men, and shall attend as such, each party shall, out of the tales men of the adverse party, choose so many as shall be requisite to make up, together with such of his, her or their own special jury men as shall have attended agreeably to their summons, the number of six; to the end that in every cause tried by a special jury, each party may have six jury men of his, her, or their own choice: But if out of the ten men summoned as a special jury and tales men, on behalf of each party in any cause, six men shall not appear on behalf of both or either of the parties, then each party shall instantler give in to the court the names of so many men from the vicinity of the court house, as will make three times the number wanted to make up his, her, or their compliment of six jurors, who shall be immediately summoned by the sheriff of the district to give their attendance; and out of the number who shall attend after being so summoned, each party shall choose as many as will make up his, her or their compliment of six jurors; and every jury so drawn as is above directed, shall constitute a special jury, to hear, try and determine any such cause as shall be submitted to them; *provided always nevertheless*, that nothing herein contained shall debar any person of or from legal challenges to any of the said jurors.

II. *And be it further enacted* by the authority aforesaid, That the chief justice and associate judges of the court of common pleas of this State, or a majority of them, shall be, and they are hereby, authorized to make and establish all such rules, orders and regulations, as they may deem proper or necessary to carry fully into effect the foregoing clause of this Act.

Part of Act of
1769, repealed.

III. *And be it further enacted* by the authority aforesaid, That so much of the law or Act entitled "An Act for establishing courts, building goals, and appointing sheriffs and other officers, for the more convenient administration of justice in this Province," passed on the nineteenth day of July, which was in the year of our Lord one thousand seven hundred and sixty-nine, as is repugnant or contrary to the foregoing clause of this Act, shall be, and the same is hereby, repealed.

IV. *And be it further enacted* by the authority aforesaid, That every man who shall be summoned, as is hereinbefore directed, to attend on a

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special jury, and shall fail, neglect or refuse to attend agreeably to his summons, shall be liable to the same pains and penalties, recoverable in the same manner, as those imposed on persons who fail, neglect or refuse to appear and attend at any district court as grand jurors, after being duly summoned for that purpose; *provided always nevertheless*, that no person shall be compelled to serve on more than two special juries during the same court or term.

Penalty on
defaulting
jurors.

V. *And be it further enacted* by the authority aforesaid, That it shall and may be lawful for the chief justice, or any of the associate judges, and they are hereby directed, once in every three years, at least, to make and appoint new jury lists for the several district courts established by law, in the manner following; that is to say, the judge who shall preside at the court for which a new jury list is intended to be formed, shall cause to be transcribed from the tax lists of the district of the preceding year, which shall be laid before him by the sheriff of the district, the name of every person entitled, agreeably to the constitution, to vote for members of the Legislature, and out of the persons who shall have paid the sum of fifteen shillings lawful money, or upwards, for his tax the last preceding, he shall carefully select the names of those best qualified to serve as grand jurors, and shall put their names, in the manner prescribed by law, in the division of the jury box numbered one; *provided nevertheless*, that the number of the grand jurors do not exceed one half of the number contained in the list of petit jurors; and all the names of the persons who are entitled, agreeably to the constitution, to vote for members of the Legislature, shall be laid before the judge, who shall, out of the persons who have paid the sum of five shillings lawful money, or upwards, for his tax last preceding, select the names of those best qualified to serve as petit jury men, and shall put their names, in the manner prescribed by law, into the division of the jury box numbered three, who shall be liable to be drawn to serve as petit jurymen and jurors for the court of common pleas, as directed by law.

Juries, how to
be drawn.

VI. *And be it further enacted* by the authority aforesaid, That whenever the judges or judge who may preside in the court of common pleas, in the several county districts of this State, are about to draw jurors to be summoned for the next succeeding court, they or he shall draw, or cause to be drawn, in the manner prescribed by the jury law of this State, the names of six persons, in addition to those heretofore drawn, to serve in the court of common pleas of the said several districts; and the persons whose names are so drawn, shall be summoned to attend in the usual manner, and shall be entitled to all the privileges and benefits, and subjected to all the penalties, of other jurors; and out of the whole numbers drawn and summoned for each of the said county or circuit districts, two juries shall always be formed, whose duty it shall be well and truly to try all the issues with which they may be charged, and to execute all the writs of inquiry which may be delivered to them, respectively.

VII. *And be it further enacted* by the authority aforesaid, That any juryman who shall be legally summoned to appear and act as such, at any of the district courts in this State, and shall neglect or refuse to do so, every such juror, if a grand juror or special juror, shall forfeit and pay the sum of ten pounds sterling money, and if a petit juror, or a juror summoned to appear and act as such, at the common pleas, shall forfeit the sum of five pounds like money, unless such person can shew a good and sufficient cause of excuse, on oath, as hath been usual heretofore, to be proved to the

Penalty on de-
faulting jurors.

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satisfaction of any of the judges at the next sitting of the court, to be recovered and applied in the same way and manner that fines for non-attendance of jurors have been heretofore recovered and applied.

VIII. And *whereas*, the sheriffs of the districts of Pinckney, Washington and Ninety-Six, were authorized and directed, by the fifteenth section of the Act entitled "An Act to amend the several Acts for establishing and regulating the circuit courts throughout this State," to form jury lists, agreeably to law, from the last tax returns for their respective districts, and to lay the same before the judges at Cambridge in November last, who should cause juries to be drawn in the manner prescribed by law: and *whereas*, the sheriffs of Pinckney and Ninety-Six districts did not lay before the judges at Cambridge their jury lists, on the first day of the sitting of the said court in November, and doubts may arise whether the juries drawn by the judges were legally drawn: and *whereas*, the sheriff of Washington district made no return at all of his jury lists, whereby the public justice may be impeded; for remedy whereof, *Be it enacted* by the authority aforesaid, That the juries which were drawn by the judge or judges at Cambridge, during their last sitting, for the districts of Pinckney and Ninety-Six, be, and they are hereby declared to have been, regularly and legally drawn, and shall be so deemed, construed and taken, as fully as if the same had been drawn on the first day of the sitting of the said court, in the most formal manner prescribed by law; and that the sheriff of Washington district be, and he is hereby, authorized and directed to proceed to form jury lists, agreeably to law, from the last tax returns in the counties in his district, and shall lay the same before the judges of the county court of Pendleton or Greenville, at any time during their next sitting, who shall be, and they are hereby, authorized and directed to cause juries to be drawn in the manner prescribed by law, to serve at the courts of general sessions and common pleas to be holden for the district of Washington on the tenth day of April next; and such drawing shall be, and is hereby declared to be, legal and regular; and the sheriff shall proceed to summon the jurors so drawn, according to law; and such persons shall be, and are hereby declared to be, liable to the same penalties for non-attendance as jurors at either of the said courts to which they may be respectively summoned by this Act, are subjected to.

IX. And *be it further enacted* by the authority aforesaid, That the offices of the different sheriffs in the several districts throughout this State, shall always be kept in the city, town or village where the respective court houses are established, on pain of forfeiting their respective offices; and that a fair and true copy of the books of every sheriff now in office, or hereafter to be in office, shall be made, at his own expense, in books well and strongly bound, and shall be lodged within three months after the expiration of his office, and be kept as public records, in the respective offices of the several sheriffs for the time being, throughout this State, on pain of forfeiting five hundred pounds.

X. And *be it further enacted* by the authority aforesaid, That three officers shall be appointed by the Legislature of this State, who shall be called circuit solicitors, and whose business it shall be to do the duty of the State's Attorney, on the Northern, Southern and Western circuits, respectively, and to give their counsel and advice to the Governor and other State officers, in matters of public concern, whenever they shall be by them required so to do, and to assist the attorney general in Charleston, or each other at any other place, in all suits or prosecutions in behalf of this State, whenever they or either of them shall be directed to do so, by the Governor

Jurors of
Pinckney,
Washington
and Ninety-
Six.

Sheriff's office
and books.

Solicitors to be
appointed.

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or Commander-in-chief of this State for the time being; and also to attend the Legislature of this State, whenever they shall meet, and to draw out or draught and engross all such bills and Acts as the President of the Senate or the Speaker of the House of Representatives shall from time to time direct them to prepare or engross; which said circuit solicitors shall be liable to all the penalties, and shall enjoy all the privileges, emoluments and advantages, to which the attorney general of this State, in Charleston, is liable or entitled; and they shall each be entitled to receive a salary of one hundred pounds sterling for their services, to be paid in equal quarterly payments.

Their duties.

XI. *And be it further enacted* by the authority aforesaid, That the said attorney general in Charleston, shall have a right to call upon the said circuit solicitors, or any or either of them, for, and to require their assistance and support in behalf of, the State, in any case where he may think it necessary or proper, or whenever sickness may prevent him from doing his duty; *Provided always, nevertheless*, that nothing in this Act contained shall be construed in such a manner as to prevent any or either of the said solicitors from appearing in behalf of, or defending, any person brought to trial before any criminal court of this State, when their duty shall not require them to prosecute such person, or when his or their assistance or service shall not be required against such person by the Governor or attorney general, as aforesaid.

XII. *And whereas*, during the existence of the former constitution, certain powers were given by several Acts and Resolutions of the Legislature, to the Governor and council, which powers cannot be now exercised, by reason of the alteration in the executive authority of the State; for remedy whereof, *Be it enacted* by the authority aforesaid, That the judges of the court of common pleas, or any one of them, in their respective districts, are or is hereby vested with the exercise of the said powers, so far as the same shall extend to hearing and determining causes in the court of caveats, which caveats shall be entered as heretofore; and the commissioners for settling the public accounts shall be, and are hereby, vested with the exercise of the said powers, so far as the same extended to the giving up of such bonds as have been deposited in the treasury for the purchase of property sold as public property, but which had been thereafter discovered to be the property of individuals.

XIII. *And be it further enacted* by the authority aforesaid, That the judges of the county courts, in those districts where county courts are established, and the justices of the quorum in those districts where they are not established, and the clerks of the several district courts, in their respective districts, shall be, and they are hereby, authorized and required to give orders for reasonable bail, on proper affidavits made, in such actions as may be commenced in any of the superior courts of law of this State, where bail may be proper, but not grantable, of course; and such judges and justices shall and may also take recognizances of special bail, in legal form, in any causes in the said courts, and shall certify and transmit the same to the judges or clerks thereof.

Bail.

XIV. *And be it further enacted* by the authority aforesaid, That the clerk and sheriff of the district of Camden shall be, and they are hereby, authorized and required to attend, by themselves or deputies, at the meetings and sitting of the court directed by the constitution to be held at Columbia, after the termination of the circuits, and to perform the usual duties of their respective offices; and the said clerk shall take particular minutes

Clerk and sheriff of Camden to attend appeal court at Columbia.

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of the proceedings of the said court, and keep record thereof; and he shall, in full compensation for his services at the said court, be entitled to and receive out of the public treasury the sum of twenty pounds per annum; and the said sheriff shall be entitled to and receive out of the public treasury, in full compensation for his services, the sum of ten pounds per annum.

Sheriff's sales,
when to be
held.

XV. *And be it further enacted* by the authority aforesaid, That the judges of the courts of common pleas shall be, and they are hereby, authorized from time to time to direct and alter the places where the sheriffs of the several districts shall make sales of the property ordered to be sold by any process of law, or order of court, as they, in their judgment, shall deem necessary and convenient for the purpose of effecting the intention of the Legislature, with respect to public sales; and all sales of mortgaged property shall be made in the several districts, at the places fixed by the judges, and at the times fixed by law for the sale of property under execution.

Actions of
trespass to try
titles.

XVI. *And be it further enacted* by the authority aforesaid, That in actions of trespass brought to try the title to land, the plaintiff, or his attorney, shall always indorse on the original and copy writ, that the action is brought to try the title as well as for damages; and the judges of the court of common pleas shall and may form such reasonable and equitable rules, and lay the parties in such actions, under such just and reasonable terms, as will bring them to trial on the merits of the case, conformably to the principles of trials by ejectment, under the former law and practice of the courts.

Leave of ab-
sence to public
officers.

XVII. *And be it further enacted* by the authority aforesaid, That the Act entitled "An Act to prevent persons holding certain offices of emolument from leaving the State," be, and the same is hereby, repealed, as far as it totally prohibits the persons therein mentioned from leaving the State without permission first obtained from the Governor of the State; and such officers shall be, and are hereby, authorized and permitted, at proper times, when the same can be done without prejudice to the interests of the State, to leave the State, without such permission first obtained, for any space of time not exceeding thirty days; and when the said officers shall be desirous of leaving the State for longer time, they shall apply to his Excellency the Governor for permission so to do; and he is hereby empowered to grant permission for such reasonable absence as may be consistent with the public interest, on account of sickness, or any other proper cause suggested by the applicants.

Sales of prop-
erty levied on
for taxes, how
to be made.

XVIII. *And whereas*, great inconveniences have arisen, and many attempts have been made to deprive creditors of their just debts, by secret and collusive sales of considerable property, made far below its real value, under pretence of raising money to pay taxes, and other debts and duties to the public, and it is just that some remedy be provided against the growth of this evil practice; *Be it further enacted* by the authority aforesaid, That from and after the passing of this Act, the collectors of the taxes, public debts and duties, throughout this State, shall, whenever default be made by any person in the payment of any tax, debt or duty, now owing, or which hereafter may grow due and owing, to the State, county or parish, the whole sum so due as aforesaid not being less than five shillings, proceed to levy on the property of such defaulter in their respective counties or parishes, in the manner prescribed by law, and shall proceed to give three weeks notice, by advertisements put into one or more Gazettes, where they are established, and posted up in three of the most

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notorious and public places of the counties and parishes where Gazettes are not established, of the time and place where sale is intended to be made of the property of such defaulter; and the collectors aforesaid shall express in their advertisements the sum due by such defaulter, and the property levied upon and intended to be sold; and where the sum due by the defaulter aforesaid is less than five shillings, the collectors aforesaid shall and may proceed summarily by distress and sale, for which they shall not be entitled to demand or receive any fee, reward or compensation.

XIX. *And be it further enacted* by the authority aforesaid, That all sales by collectors shall be made at the court houses of their respective counties, and at the most public and notorious place in the parish or collection district, where county courts are not established, nearest the place of residence of such defaulter, or where the property may be found, on Monday and Tuesday in each week.

XX. *And be it further enacted* by the authority aforesaid, That whenever any collector shall levy on any property of any defaulter, for any taxes, debts or duties as aforesaid, he shall not put up for sale in any one lot, more than he believes will be sufficient to pay the sum due by such defaulter, together with the charges of legal process; and if the sale be made of negro slaves, he shall not sell them for any longer term than one year; and if the sale be made of land, he shall not sell the same for any longer term than seven years.

XXI. *And be it further enacted* by the authority aforesaid, That whenever any collector shall make sale of any property of any such defaulter, he shall, after deducting so much from the amount sales as will fully satisfy the tax, debt or duty, by him due, and the legal charges on the process of law, pay over whatever balance may remain in his hands, to the sheriff of the county or circuit court in which the said property is sold, according to the legal priority of the demands in their hands, to be by them applied to the payment of such demands, if any they have, according to law.

XXII. *And be it further enacted* by the authority aforesaid, That all sales of property, real or personal, made for or by reason of, or under pretext of raising money to pay any taxes, debts or duties as aforesaid, contrary to this Act, shall be, and the same are hereby declared to be, null and void.

XXIII. *And be it further enacted* by the authority aforesaid, That the judges of the county court of Kershaw shall be, and they are hereby, authorized to hold the court for the said county in the district court house, in the town of Camden, at such times as the same may not be required for the use of the superior courts: And the keeper of the goal of Camden district shall be, and he is hereby, authorized and required, to receive into his custody, and safely keep in the goal of the said district, such persons as may be committed to goal by any of the judges of the county court of Kershaw, or by order of the court thereof.

XXIV. *And whereas*, by the seventh section of an Act, passed on the nineteenth day of February, in the year one thousand seven hundred and ninety-one, entitled "An Act to amend the several Acts for establishing county courts, and for regulating and amending the proceedings therein," the justices of the peace, where county courts are established, had, in certain cases, jurisdiction to the amount of five pounds, and in other cases, to the amount of three pounds sterling; *Be it therefore enacted* by the authority aforesaid, that all justices of the peace, where county courts

Jurisdiction of
Magistrates.

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Recognizances, how to be returned.

are not established, shall have the same jurisdiction that justices of the peace have where such county courts are established.

XXV. And *whereas*, the neglect of justices of the peace in returning recognizances to the several courts of general sessions of the peace, oyer and terminer, assize and general gaol delivery, in due time, hath been productive of much delay and inconvenience in the business of the said court; *Be it enacted* by the authority aforesaid, That from and after the passing of this Act, all justices of the peace, before whom recognizances of witnesses, defendants or prosecutors, for their respective appearances at any of the said courts, shall be taken, or before whom any information or other paper, returnable to the same, shall be made, shall lodge the said recognizances, informations or papers in the respective clerks's offices of the courts to which they are returnable, on or before the first day appointed for the meeting of the said courts respectively, under pain of forfeiting ten pounds sterling, for every neglect, to be recovered by bill, plaint or information, in the said courts, at the suit of the State and for its use, unless the person so neglecting shall give in to the court, on oath, a good and sufficient excuse for his said neglect.

In the Senate House, the twentieth day of December, in the year of our Lord one thousand seven hundred and ninety-one, and in the fifteenth year of the Independence of the United States of America.

DAVID RAMSAY, *President of the Senate.*

JACOB READ, *Speaker of the House of Representatives.*

No. 1527. AN ADDITIONAL ACT TO THE ACT ENTITLED "AN ACT TO ESTABLISH A COURT OF EQUITY WITHIN THIS STATE," PASSED THE NINETEENTH DAY OF FEBRUARY, SEVENTEEN HUNDRED AND NINETY ONE.

I. *Be it enacted* by the honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the court of Equity shall, in future, be held at Charleston, on the second Monday in each September, instead of the third Monday in that month, as it is now fixed by law; and at Cambridge, for the district of Ninety-Six, Washington and Pinckney, excepting that part of Pinckney district which comprehends York and Chester county, on the twenty-eighth day of April and the twenty-fourth day of November, in each year, instead of the fifth day of May and December, in each year; and shall continue to sit, from day to day, (Sundays excepted,) at Cambridge, for the space of six days, if the business shall require so long time; and at Columbia, for the district of Camden, as it is now delineated, inclusive of that part of Pinckney district which is comprehended in York and Chester county, Cheraws and Orangeburg, on the sixth day of May and December, in each year, instead of the fifteenth day of May and December, as now established by law; and shall continue to sit, from day to day, until the business ready for hearing be dispatched.

II. And *whereas*, the inhabitants residing in the remote districts of this State, may be often deprived of the benefit of injunctions issuing out of the court of Equity, to stay proceedings at law, by reason that levies may

be made under executions before they can make regular application to the court for such injunction, on account of their distance; for remedy whereof, *Be it enacted*, That whenever any person shall be dissatisfied with a judgment at law, and shall think himself relievable in Equity, he may, at any time within forty days after the adjournment of the court at which such judgment was obtained, give notice, by himself or his attorney, in writing, to the sheriff of the district with whom execution may be lodged, that he means to file his bill in the court of Equity, praying for a writ of injunction, and shall annex thereto an affidavit of such intent; and such sheriff, on being served with such notice and affidavit, within the said time, whereof he shall make true entry in his books, shall be bound, on receiving security, as hereinafter prescribed, to stay further proceedings on such execution; *provided*, the said notice and affidavit be served on him before actual sale of the property; and in cases where levies shall have been made on any moveable property, the complainant, on giving bond to the sheriff, with two good surities, to be approved by him, subject to the future approbation of the court, in a sum equal to double the real value of the property so levied on, and conditioned to return in good order to such sheriff the whole of the said property, if the complainant does not procure from the court of Equity, and cause to be served on him, a writ of injunction, within thirty days from the date of such bond, shall be entitled to receive back and retain all such moveable property; and the said complainant shall be bound to proceed and file his bill, and apply for an injunction, according to the rules and practice of the court of Equity, within twenty days after giving such bond to said sheriff: and if no writ of injunction issuing out of the court of Equity, be served on said sheriff within thirty days after his taking said bond, commanding him to stay proceeding in said suit at law, he shall then proceed to seize, and again take into his possession, said property, and sell the same under the said execution, after giving the legal notice: and if the said complainant shall not forthwith surrender and deliver up such property, the said sheriff shall assign the said bond to the plaintiff in the suit, who may commence suit thereon, and proceed to recover from the said defendant at law, and his surities, the amount of the penalty of the said bond, with costs of suit; in which suits no imparlance shall be allowed.

In the Senate House, the twentieth day of December, in the year of our Lord one thousand seven hundred and ninety-one, and in the sixteenth year of the Independence of the United States of America.

DAVID RAMSAY, *President of the Senate.*

JACOB READ, *Speaker of the House of Representatives.*

AN ACT TO ALTER AND AMEND THE SEVERAL ACTS FOR ESTABLISHING AND REGULATING THE CIRCUIT COURTS THROUGH THIS STATE. No. 1543.

I. *Be it enacted* by the honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That to prevent false or erroneous entries in the journals of the courts of common pleas in the said districts, it shall be the duty of the

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clerks of the said courts respectively, on each day previous to the adjournment of the court, to read over to the judge or judges who may preside, the minutes or entries which shall have been made during the day in the said journal.

II. *And be it further enacted* by the authority aforesaid, That the jurors drawn at the last courts at Cambridge and at Camden, to serve at the ensuing courts, shall be taken and deemed to be good and legal juries, and shall be obliged to serve as such according to law; any informalities in the drawing of the said jurors to the contrary thereof notwithstanding.


III. And to the end that the judges of the courts of common pleas may be better enabled to carry into effect the several Acts of the Legislature, providing for the making of jury lists; *Be it further enacted* by the authority aforesaid, That the judge or judges in each of the courts in this State, and at any time during the term at which it shall be necessary to provide for the making of a new jury list, shall and may, by rule of court, order and direct the several tax collectors within the district, to furnish to the sheriff of the district, by a day therein to be mentioned, the names of all the inhabitants entitled (agreeably to the constitution) to vote for members of the Legislature, within the respective parishes or counties of the said tax collectors respectively, distinguishing such names as have paid five shillings, and less than fifteen shillings, and such as have paid fifteen shillings and upwards for taxes the last year, to be by the said tax collectors transcribed from their books or lists respectively, for that purpose; a copy of which rule, the sheriff of the said districts respectively, shall cause to be served upon each tax collector within the district; and upon neglect or refusal of any tax collector to obey the exigence of such rule, and upon proof of a copy thereof having been duly served upon him, he shall be liable to be punished by the said court as for a contempt.

IV. *And be it further enacted* by the authority aforesaid, That not less than three judges shall hereafter preside and hold the adjournment court at Columbia; but as many more as may be convenient.

V. *And be it further enacted* by the authority aforesaid, That no person hereafter shall be permitted to practise as an attorney or solicitor in any of the courts of this State, whose known and established residence is not within this State; and all writs and other process issued, or pleadings filed, by or on the part of attorneys or solicitors residing out of this State, are hereby declared to be illegal and invalid, and may be quashed on motion; *Provided nevertheless*, that it may be lawful for attorneys or solicitors living without this State, to attend the next judiciary court to finish business now pending.

VI. *And be it further enacted* by the authority aforesaid, That where rules or process to revive proceedings at law cannot be served upon persons, because of their absence from and without the limits of this State, it shall be sufficient to post such rules or process upon the court house door of the district in which such absent person had their last residence.

VII. And to prevent unnecessary suits in equity, where bonds are given conditioned for performance of covenants, or for the delivery of property, or for things other than the payment of money, *Be it further enacted* by the authority aforesaid, That the plaintiff may in all such cases, before he takes out his execution, (and the defendant may by rule of court compel him thereto) submit the condition of such bonds and the special circumstances, to a jury, in like manner as on a writ of enquiry, which jury may assess and fix the debt or damages actually due; and the execution shall be

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levied accordingly; *Provided always*, that the judgment for the penalty shall stand as a surty for the sum so assessed by the jury, together with the costs of suit.

VIII. And to the end that plain and adequate remedy may be furnished at law upon copartnership debts, where one or more of the copartners is or are out of the State, and cannot be served with process, or where there are dormant copartners; *Be it further enacted* by the authority aforesaid, That in all such cases, it shall be sufficient to serve process upon such of the copartners as may reside or be found in the State, or upon such of the firm or copartnerships as are known; and suits so commenced against copartnerships, are hereby declared to be legal and valid; any law, usage or custom to the contrary thereof in any wise notwithstanding.

IX. *And be it further enacted* by the authority aforesaid, That all process lodged for service and actually served, or copies left at the defendant's place of abode, for the circuit courts, after the time prescribed by law for the return of process, shall not by reason thereof be void, but shall be good for the second court thereafter, in the same manner as though they had been served or executed thirty days next before the sitting of the said second court.

X. *And whereas*, the dockets of causes at issue for trial at Camden and at Cambridge, have respectively become very large, so that the time allowed by law is not sufficient for the trial of the whole of the said causes; *Be it therefore enacted* by the authority aforesaid, That the courts of common pleas at the aforesaid places respectively, at the ensuing April term, shall and may sit from day to day, (Sundays excluded) until the whole of the causes at issue be tried; *Provided*, that the term do not extend beyond fifteen days.

In the Senate House, the twenty-first day of December, in the year of our Lord one thousand seven hundred and ninety-two, and in the seventeenth year of the Independence of the United States of America.

DAVID RAMSAY, *President of the Senate.*

JACOB READ, *Speaker of the House of Representatives.*

AN ACT TO ENABLE THE CIRCUIT COURT OF GEORGETOWN, AT THE ENSUING TERM, TO MEET ON THE TWENTY-EIGHTH DAY OF MARCH NEXT, INSTEAD OF THE FIRST DAY OF APRIL; FOR EXTENDING THE TIME FOR HOLDING THE COURTS IN NINETY-SIX DISTRICT; FOR THE BETTER ADVANCEMENT OF JUSTICE IN THE COURTS OF LAW AND EQUITY; AND FOR OTHER PURPOSES THEREIN MENTIONED. No. 1581.

WHEREAS, the docket of causes for trial at the Georgetown court, hath become so large, that the usual time allowed by law for the said court to sit, is insufficient for the dispatch of all the causes.

I. *Be it enacted* by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of Court of the same, That it shall and may be lawful for the judge or judges who shall sit at Georgetown, or may preside at the next courts of sessions and common pleas, to be

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holden for the district of Georgetown, to assemble and hold the said courts on the twenty-eighth day of March next, instead of the first day of April; and the said judges are hereby required to proceed, on the twenty-eighth day of March next, in the said court, to the dispatch of business, in the same way they would and ought to do, on the first day of April next, if this Act had not been passed; and the writs of *venire facias* for assembling of jurors for the said courts of sessions and common pleas shall be issued accordingly, and all such jurors shall be summoned to appear at the said court, on the said twenty-eighth day of March next, in like manner, and subject to the same penalties, as are prescribed in cases where the said courts meet at the time heretofore fixed by law; and all sheriffs, coroners, constables, justices, prosecutors and witnesses, whose duty it is to appear at the said courts on the first day of April next, shall be, and they are hereby, required, under the same penalties respectively, to appear at the said courts on the said twenty-eighth day of March next; and all writs, and process, and judicial proceedings, being returnable, continued, or having day in court, on the first day of April next, shall be returned and continued to the twenty-eighth day of March next, and shall then have day in court, in the said court, in like manner as they would have on the first day of April next, if this Act had not passed; and the said court shall continue to sit for ten days, if the business thereof shall so long require.

II. And *whereas*, from the magnitude of the docket in the district of Ninety-Six, it is necessary to extend the time for holding the courts for said district; *Be it therefore enacted* by the authority aforesaid, That the time of holding the courts of general sessions of the peace and common pleas, at Cambridge, in and for the district of Ninety-Six, at the ensuing April term, shall be, and the same is hereby, extended to fifteen judicial days from the commencement of the term, if the business of the said courts, or either of them, shall require it: and that two of the judges of the said courts be, and they are hereby, required to attend at Cambridge during the said term, for the purpose of holding the said courts; and that in case the said court of sessions shall adjourn before the court of common pleas, that the judge who shall preside in and hold the same court of sessions, shall take his seat and assist during the session of the court of common pleas, till the end of the term, or until all the causes ready for trial are dispatched.

III. And *whereas*, Doubts have arisen whether lands and tenements are liable to be taken in execution under a decree on summary process in the courts of common pleas, *Be it further enacted* by the authority aforesaid, That all decrees on summary process, on being duly docketed in the said courts, shall be as effectual to bind the lands and tenements of the defendant as other judgments; and the execution thereupon shall and may be levied upon the lands and tenements, in like manner as other executions have been and may be levied.

IV. And to furnish adequate remedy at law against executors and administrators in cases where one or more may be out of the State; *Be it further enacted* by the authority aforesaid, That in cases where there are two or more executors or administrators to any estate, and any one or more of them hath withdrawn, or shall withdraw, or reside out of the State, it shall and may be lawful for any creditor or person having right or cause of action against such estate, to sue out his writ against all the executors or administrators, naming and setting forth therein the executor or administrator, one or more, who is or are out of the State; and the said writ being executed in the usual form upon those who are within the State, the suit

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shall be deemed to be good and effectual in law to all intents and purposes ; saving only, that the judgment in such cases shall not extend to work any devastavit upon the person or persons so absent, or to effect him, her or them in their private right.

V. And *whereas*, the Act entitled “ An Act to establish a court of equity within this State,” directs that the said court shall sit at Columbia, for all causes where the defendant shall reside in Camden, Orangeburgh and Cheraw districts ; at Cambridge, for all causes where the defendant shall reside in the district of Ninety-Six ; and at Charleston, where the defendant shall reside in either of the districts of Charleston, Beaufort or Georgetown ; but the said Act makes no provision for the trial of causes where there are two or more defendants, some residing in districts ranged under one of the said courts, and some in districts ranged under another ; *Be it further enacted* by the authority aforesaid, That where there are several defendants residing in different districts, ranged under different courts, the complainant shall commence and pursue his proceedings in that court which takes cognizance over the districts in which the greatest number of defendants shall reside ; but where an equal number of the defendants reside in districts ranged under different courts, the complainant may elect in which of such courts he will commence his proceedings ; and the judges of the said court of equity shall and may make all proper and necessary rules for carrying the intention of this clause into effect.

VI. *Whereas*, considerable inconveniences have arisen from the present mode of assessing, apportioning and collecting the county taxes, in the several counties in this State where county courts are established ; *Be it further enacted* by the authority aforesaid, That in future, the judges of the county courts in the said courts shall be, and they are hereby, empowered to assess, apportion and collect the county taxes within their counties respectively, for the purpose of defraying the county expenses, according to the most equitable plan whereby the same can be assessed, apportioned and collected ; any law, usage or custom to the contrary thereof notwithstanding.

In the Senate House, the twenty-first day of December, in the year of our Lord one thousand seven hundred and ninety-three, and in the eighteenth year of the Independence of the United States of America.

DAVID RAMSAY, *President of the Senate.*

JACOB READ, *Speaker of the House of Representatives.*

AN ACT TO ESTABLISH AN UNIFORM AND MORE CONVENIENT SYSTEM OF JUDICATURE. No. 1706.

WHEREAS, a more easy, certain, and uniform system of judicature, by the establishment of courts, under proper regulations, in districts of convenient dimensions, in this State, will tend greatly to promote the interest and happiness, and preserve the just rights, liberties and properties, of the good people thereof : To attain, therefore, the salutary ends aforesaid, Preamble.

I. *Be it enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of State divided the same, That from and immediately after the passing of this Act, this State shall be, and hereby is, divided into the several districts hereinafter into districts.

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expressed and described, that is to say: One district, to be named Abbeville district, to comprehend the county of that name, according to its present limits; one other district, to be named Edgefield district, to comprehend the county of that name, according to its present limits; one other district, to be named Newberry district, to comprehend the county of that name, according to its present limits; one other district, to be named Laurens district, to comprehend the county of that name, according to its present limits; one other district, to be named Pendleton district, to comprehend the county of that name, according to its present limits; one other district, to be named Greenville district, to comprehend the county of that name, according to its present limits; one other district, to be named Spartanburgh district, to comprehend the county of that name, according to its present limits; one other district, to be named Union district, to comprehend the county of that name, according to its present limits; one other district, to be named York district, to comprehend the county of that name, according to its present limits; one other district, to be named Chester district, to comprehend the county of that name, according to its present limits; one other district, to be named Lancaster district, to comprehend the county of that name, according to its present limits; one other district, to be named Fairfield district, to comprehend the county of that name, according to its present limits; one other district, to be named Kershaw district, to comprehend the counties of Kershaw and Richland, according to their present limits; one other district, to be named Chesterfield district, to comprehend the county of that name, according to its present limits; one other district, to be named Marlborough district, to comprehend the county of that name, according to its present limits; one other district, to be named Darlington district, to comprehend the county of that name, according to its present limits; the three counties of Claremont, Clarendon and Salem, shall form one district, to be called Sumter district, which said district shall comprehend the said three counties, as heretofore established by an actual survey; one other district, to be named Marion district, to comprehend the county now called Liberty county, according to its present limits; one other district, to be named Georgetown district, to comprehend the whole of the former district of Georgetown, except Marion district aforesaid; one other district, to be named Colleton district, to comprehend the parishes of Saint Paul, Saint Bartholomew and Saint George Dorchester; one other district, to be named Charleston district, to comprehend the former district of Charleston, except Colleton district; one other district, to be named Beaufort district, and to comprehend the present district of that name; one other district, to be named Barnwell district, to comprehend that part of the former district of Orangeburgh, which lies between South-Edisto and Savannah rivers; one other district, to be named Orangeburgh district, to comprehend the whole of the former district of Orangeburgh, except Barnwell district aforesaid.

II. *And be it further enacted* by the authority aforesaid, That in each of the said districts, by this Act established, there shall be held, from and after the first day of January, in the year of our Lord one thousand eight hundred, by one or more of the associate judges of this State for the time being, and at such places as shall be appointed by or under this Act, a court of sessions and a court of common pleas, to possess and exercise, respectively, each court in its respective district, the same powers and jurisdiction now held and exercised by the several circuit or district courts

Time of holding courts.

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of this State, in their respective districts, and shall sit at the times following, that is to say : For Abbeville district, at Abbeville court-house ; for Orangeburgh district, at Orangeburgh court-house ; for Marion district, at Marion court-house, on the first Mondays in March and October, in every year. For Pendleton district, at Pendleton court-house ; for Barnwell district, at Barnwell court-house ; for Darlington district, at Darlington court-house, on the second Mondays in March and October, in every year. For Greenville district, at Greenville court-house ; for Edgefield district, at Edgefield court-house ; for Marlborough district, at Marlborough court-house, on the third Mondays in March and October, in every year. For Spartanburgh district, at Spartanburgh court-house ; for Laurens district, at Laurens court-house ; and for Chesterfield district, at Chesterfield court-house, on the fourth Mondays in March and October, in every year. For Union district, at Union court-house ; for Newberry district, at Newberry court-house ; and for Lancaster district, at Lancaster court-house, on the Monday next after the fourth Monday of March and October, in every year. For York district, at York court-house ; for Fairfield district, at Fairfield court-house ; and for Kershaw district, at Kershaw court-house, on the second Monday after the fourth Monday in March and October, in every year. For Chester district, at Chester court-house ; and for Sumter district, at Sumter court-house, on the third Monday after the fourth Monday in March and October, in every year. For Charleston district, at Charleston, on the second Monday in January and May, in every year ; and to continue to sit no more than five weeks. For Georgetown district, at Georgetown, the first days of April and November. For Colleton district, at Colleton court-house, when built, on the tenth days of April and November. For Beaufort district, at Coosawhatchie, on the seventeenth days of April and November. To sit no more than six days in each of the last mentioned districts.

III. *And be it further enacted* by the authority aforesaid, That each of the said courts shall sit and adjourn, from day to day, not exceeding five days, till the business thereof be dispatched, if all the business can be determined in that time ; but if not, then what shall remain unfinished shall be continued or adjourned over till the next court, except only as to the courts of Charleston, Georgetown, Colleton and Beaufort districts, which shall sit the time by this Act before prescribed. Time of sitting.

IV. *And be it further enacted* by the authority aforesaid, That the several courts of Charleston district, Georgetown district, Colleton district, and Beaufort district, shall form one circuit, to be named the Eastern Circuit ; and that the attorney-general shall attend each of the said courts, and prosecute all suits and prosecutions on behalf of the State, in each of the aforesaid courts, respectively, according to the usage and custom of the existing circuit courts of this State. The several courts of Abbeville district, Pendleton district, Greenville district, Spartanburgh district, Union district, York district, and Chester, shall form one other circuit, to be named the Western circuit ; and that the solicitor of the western circuit, as now by law established, shall attend each of the courts of the said western circuit, and prosecute therein, respectively, all suits and prosecutions on behalf of the State, according to the usage and custom of each of the existing circuit courts of this State. And that the several courts of Marion district, Darlington district, Marlborough district, Chesterfield district, Fairfield district, Kershaw district, and Sumter district, shall form one other circuit, to be named the Northern Circuit ; and that the solicitor

Distribution of courts into circuits.

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tor of the northern circuit shall attend each of the courts of the said northern circuit, and prosecute therein, respectively, all suits and prosecutions on behalf of the State, according to the usage and custom of the existing circuit courts of this State. And that the several courts of Orangeburgh, Barnwell, Edgefield, Laurens and Newberry districts, shall constitute one circuit, to be called the Southern Circuit; and the solicitor of the southern circuit shall attend and prosecute therein all suits and prosecutions, on behalf of the State, according to the custom and usage of the existing circuits of this State.

Courts of record.

V. *And be it further enacted* by the authority aforesaid, That the several circuits, by this Act established, shall be courts of record; and all persons necessarily going to, and attending on, or returning from, the same, shall be free from arrests in any civil action.

Jury lists to be made, and jurors to be drawn.

VI. *And be it further enacted* by the authority aforesaid, That the sheriffs who shall be elected for the said districts respectively, shall be, and they are, and each of them are hereby, severally and respectively, authorized and required, immediately after they shall have been respectively elected and commissioned as hereinafter directed, to make jury lists from the tax returns of the preceding year, of the said districts respectively, agreeably to law: And that the said sheriffs, and the clerks, who shall be appointed and commissioned, as hereinafter directed, of the said districts respectively, shall forthwith draw, from the said jury lists, jurors to serve on the several juries at the said courts respectively, in like manner as jurors are now drawn to serve in the superior courts of law in this State; and the sheriffs of the said districts respectively, shall summon the jurors so drawn as aforesaid, to appear and serve at the said courts respectively.

New jury lists to be made out every 3 years.

VII. *And be it further enacted* by the authority aforesaid, That at the first holding of each of the said several district courts, established by this Act, and once at least in every three years thereafter, it shall and may be lawful for one or more of the associate judges of this State, and they are hereby directed and required, to cause new jury lists to be made up from the tax returns of such districts, for the preceding year, which tax returns the sheriff of each district shall procure from the the tax collector thereof, who is hereby required, without delay, to deliver the same to such sheriff; and the judge or judges, attending at such court, shall cause therefrom to be transcribed the names of such persons who are entitled by the constitution of this State to vote for members of the State Legislature, and shall have been liable to pay, the preceding year, a tax of three dollars, and upwards, for the support of this government, and shall carefully select therefrom the names of those persons best qualified to serve as grand jurors, and shall put their names, in the manner prescribed by law, in the division of the jury box numbered one; and also the names of such persons who are entitled, as aforesaid, to vote for members of the State Legislature, and shall have been liable to pay, the preceding year, a tax of one dollar, and upwards, for the support of this government, and shall carefully select therefrom the names of those persons best qualified to serve as petit jurors and common pleas jurors; and shall put their names, in the manner prescribed by law, into the division of the jury box numbered three; *provided*, the number of the grand jurors do not exceed one half of the petit jurors, selected as aforesaid.

VIII. *And be it further enacted* by the authority aforesaid, That one or more of the associate judges aforesaid, at every time of holding of each of the said several district courts established by this Act, shall cause to be

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drawn out of the division of the jury box of such courts, numbered one, the names of twenty-four persons to serve as grand jurors; and out of the division of the said jury box, numbered three, the names of forty-eight persons, to serve as petit jurors and common pleas jurors at the next succeeding court for such district; and the said grand and petit jurors shall be summoned and empannelled, in like manner as grand, petit and common pleas jurors now are.

Judges to
cause juries to
be drawn.

IX. *And be it further enacted* by the authority aforesaid, That any juryman who shall be legally summoned to appear and serve at any of the said courts established by this Act, and shall neglect or refuse so to do, shall, if a grand juror, forfeit and pay the sum of thirty dollars, and five per cent upon the amount of his general State taxes for the year preceding; and if a petit or common pleas juror, the sum of twenty dollars, and five per cent upon the amount of his general State taxes for the year preceding; unless such person shall shew a good and sufficient cause of excuse, upon oath, to the satisfaction of any of the said judges, at the next sitting after the sitting of the court to which such person shall have been summoned to serve as aforesaid; to be recovered and applied in the same way and manner that fines for non-attendance of jurors have been heretofore recovered and applied.

Penalty for
non-attendance

X. *And be it further enacted* by the authority aforesaid, That from and after the first day of January, in the year of our Lord one thousand eight hundred, the several county courts shall cease to have jurisdiction, original or appellate, of any causes, civil or criminal, except as hereinafter declared; but shall continue to be held and sit for the dispatch of all such other matters as are now within their jurisdiction, four times in each year, at the times and places now appointed by law for holding the said county courts respectively, and shall keep, as heretofore, a record of all mesne conveyances of lands within their respective counties; and that all suits and indictments which shall or may be depending in the said county courts, on the first day of January, one thousand eight hundred, shall be transferred to the district courts of common pleas and sessions hereby established for each of the said counties respectively; which said courts of common pleas and sessions, are hereby authorized and required to proceed in all such suits and indictments, to judgment, sentence and execution, in the same manner as in suits and indictments commenced in any of the said last mentioned courts, under and by virtue of this Act.

Jurisdiction of
county courts
declared.

XI. *And be it further enacted* by the authority aforesaid, That from and after the first day of January, in the year of our Lord one thousand eight hundred, the several courts of general sessions of the peace, oyer and terminer, assize and general gaol delivery, and of common pleas, now established and held in this State, shall be, and the same are hereby, forever abolished; and that all suits, appeals and indictments, then depending in any of the said courts, (except the court of Charleston district, in which the business already commenced shall be continued in the district of Charleston, established by this Act,) shall be transferred in manner following, that is to say: when any district shall contain two or more of the districts established by this Act, the suits, appeals and indictments, depending in the respective superior courts of law of such district, shall be transferred to that new district established by this Act, within such district, wherein the defendant or appellee resides; and where there are two or more defendants or appellees, residing in different new districts, within the limits of such district, then to such one of the said new districts as the plaintiff or appellant shall direct; and where none of the defendants or appellees reside within

Former courts
of common
pleas and ses-
sions abolish-
ed, and busi-
ness trans-
ferred.

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Acts relating to Courts.

such district, then to such of the new districts therein, as the plaintiff or appellant shall direct; and all indictments to the new district where the offence was committed. And all the said suits and indictments shall be continued, proceeded on and determined in the respective courts to which they shall be transferred, as aforesaid; and all records of the said superior courts hereby abolished, shall be transferred to the nearest district established by this Act, there to be kept and continued.

XII. *And be it further enacted* by the authority aforesaid, That the several clerks of the courts required by this Act, shall be recommended by the judges of the county courts, resident in such districts where county courts are established, to his Excellency the Governor, who shall appoint and commission the persons so recommended; and that the several clerks of the courts required by this Act, where no county courts have been heretofore held, shall be recommended by a majority of the justices of the peace in such districts, to his Excellency the Governor, who shall commission and appoint the clerks so recommended; and a sheriff shall be appointed for each of the said districts, who shall be elected by a joint ballot of both branches of the Legislature, and commissioned by the Governor or Commander-in-chief for the time being, according to the constitution of this State; which sheriffs and clerks shall perform, respectively, in the districts and courts whereof they shall be appointed or chosen, all the duties, and shall receive therefor the same fees and emoluments, and shall be subject to the same rules, regulations and restrictions, now established by law for and concerning the clerks and sheriffs of the several circuit and district courts in this State.

Clerks of the courts, how to be appointed.

XIII. *And whereas*, it is in the contemplation of the Legislature of this State, to establish an uniform system of judicature throughout this State, and that the laws should be administered by one and the same judges throughout the State; *Be it therefore enacted* by the authority aforesaid, That from and after the first day of January, one thousand eight hundred, the sixth and seventh clauses of an Act entitled "An Act to explain and amend an Act entitled 'An Act to incorporate Charleston, and to enlarge the powers of the city council,' passed the twenty-sixth day of March, one thousand seven hundred and eighty-four," be, and the same is hereby, repealed.

Court of wardens abolished.

XIV. *And be it further enacted* by the authority aforesaid, That from and after the commencement of the operation of this Act, the attorneys fees in the respective courts shall not exceed the present fees had by law, upon the proceedings by petition and summons, in the present circuit courts, in all cases whatsoever, wherein the county courts have hitherto had exclusive jurisdiction, and in other cases the usual fees allowed by law.

Attornies fees reduced.

XV. *And be it further enacted* by the authority aforesaid, That two judges, in addition to those already on the bench, shall be elected for the courts of sessions and common pleas throughout this State, who shall be commissioned in the same manner, shall perform the same services, and be entitled to the same salary, with the present judges of the courts of sessions and common pleas.

Two judges added to the present number.

XVI. *And be it further enacted* by the authority aforesaid, That an Act of the General Assembly of this State, entitled "An Act for establishing the salary for the Governor of this State, and the salaries of other public officers; and for other purposes therein mentioned," be, and the same is hereby repealed, so far as relates to the judges of the courts of sessions and common pleas, and the appointment of a chief justice.

Repealing clause, as to judges and chief justice.

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XVII. *And be it further enacted* by the authority aforesaid, That until a court-house can be erected in a central and convenient position, in and for the district of Colleton, the courts for that district be held at Jacksonborough; and that the prisoners to be confined for trial within the said district, be sent to and confined in the goals of Charleston or Beaufort districts.

Colleton court
to be held at
Jacksonboro'.

XVIII. *And be it further enacted* by the authority aforesaid, That Paul Hamilton, William Boone Mitchell, Benjamin Perry, Colonel John Glaze, William Postell, Benjamin Postell, William Jones, James P. Applebury and Joseph Koger, be, and are hereby, appointed commissioners to fix upon a convenient and central situation, whereon to establish a court-house and goal for the said district of Colleton, and to contract for the building of the same: And that James Davis, William Taylor, Thomas Sumter, jr. Hubert Rees, George Cooper, John Cassels and John Witherspoon, jr. shall be, and they are hereby, appointed commissioners to ascertain and fix upon the most central place for the erection of a court-house and goal in the district of Sumter; and they are hereby directed to advertise for undertakers of the said buildings, and report the terms to the next sitting of the Legislature: And that until the said court-house and goal shall be in sufficient condition for the sitting of the court, the said commissioners shall fix upon a proper place for the sitting of the same: And also, that Colonel John M Ree, Dr. Thomas Wickham, John Ford, John Orr, Benjamin Harrellson, James Crawford, Thomas Harley and Dr. James Ree, be, and are hereby, appointed commissioners for the purpose of fixing on a convenient and central situation, whereon to establish and build a court-house and goal for the district of Marion, and to superintend the building of the same: And that Aaron Smith, Isaac Bush, Elijah Ford, Jesse Winburn and Tarleton Brown, be, and they are hereby, appointed commissioners for the purpose of fixing on a convenient and central situation, whereon to establish and build a court-house and goal for Barnwell district, and to superintend the building of the same: And that in case of the death, or refusal to act, of any of the said commissioners, that the Governor of the State for the time being shall be, and he is hereby, required to appoint a proper person or persons, to act as commissioners as aforesaid, in the place or stead of those so dying or refusing to act.

Commissioners
to fix on central
places for Col-
leton, Sumter,
Marion and
Barnwell dis-
trict court-
houses.

XIX. *And be it further enacted* by the authority aforesaid, That the several clerks and sheriffs of the county courts throughout this State, shall continue to act as heretofore, and to discharge the several and respective duties of clerk and sheriff in each of their respective counties hereby established as districts, until the end of the first day of January, in the year of our Lord one thousand eight hundred; or until clerks and sheriffs for the said districts established by this Act, shall be appointed, elected and commissioned, as by this Act is directed.

Present clerks
and sheriffs of
county courts
continued till
others are
elected.

XX. *And be it further enacted* by the authority aforesaid, That all Acts, laws, and parts of Acts, that are contrary to this Act, or repugnant to the true intent and meaning thereof, shall be, and the same are hereby, repealed, from and after the first day of January, in the year of our Lord one thousand eight hundred.

General repeal-
ing clause.

In the Senate House, the twenty-first day of December, in the year of our Lord one thousand seven hundred and ninety-eight, and in the twenty-third year of the Independence of the United States of America.

JOHN WARD, *President of the Senate.*

WM. JOHNSON, Jr. *Speaker of the House of Representatives.*

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Acts relating to Courts.

No. 1718. AN ACT TO REVISE AND AMEND AN ACT ENTITLED "AN ACT TO ESTABLISH AN UNIFORM AND MORE CONVENIENT SYSTEM OF JUDICATURE."

WHEREAS, it is necessary to make some amendments to the said Act.

Courts, when
to sit.

CLAUSE 1. *Be it enacted* by the honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the courts of sessions and common pleas shall sit in the following districts respectively, at the times following, that is to say :—for Fairfield district, on the first Mondays in March and October in every year; for Newberry district, on the second Mondays in March and October in every year; for Laurens district, on the third Mondays in March and October in every year; for Edgefield district, on the fourth Mondays in March and October for every year; for Barnwell district, on the Mondays next after the fourth Mondays in March and October in every year; for Orangeburgh, on the second Monday next after the fourth Mondays in March and October in every year; for Richland district, on the third Monday next after the fourth Mondays in March and October in every year; for Beaufort district, on the sixteenth days of April and November in every year; the courts of Colleton and Beaufort districts to sit not more than five days.

Richland.

CLAUSE 2. *And be it further enacted* by the authority aforesaid, That Richland county, according to its present limits, shall constitute a distinct district, to be called Richland district, and a court shall be held for the same at Columbia, to sit on the day hereinbefore specified; and that Fairfield district and Richland district shall be, and they are hereby declared to be, included in and to form part of the southern circuit.

Sheriffs' bonds.

CLAUSE 3. *And be it further enacted* by the authority aforesaid, That the bonds of the sheriffs of the several districts hereafter to be elected, shall be given respectively in the sums following, to wit :—the bond of the sheriff of Charleston district, in the sum of thirty thousand dollars; the bond of the sheriff of Georgetown district, in the sum of fifteen thousand dollars; the bond of the sheriff of Colleton district, in the sum of eight thousand dollars; the bond of the sheriff of Beaufort district, in the sum of five thousand dollars; the bond of the sheriff of Sumter district, in the sum of twelve thousand dollars; and the bond of the sheriff of each and every other district in this State respectively, in the sum of seven thousand dollars.

Their security.

CLAUSE 4. *And be it further enacted* by the authority aforesaid, That the sheriffs of the districts aforesaid, respectively, shall give such security, to be approved of by commissioners for that purpose to be appointed (in the said several districts) by the Legislature, in manner and form, as in and by the Act of the General Assembly of this State, entitled "An Act concerning the office of sheriff," passed at Columbia on the twelfth day of December, in the year of our Lord one thousand seven hundred and ninety-five, is required and directed.

Courts, how
long to sit.

CLAUSE 5. *And be it further enacted* by the authority aforesaid, That each of the courts, (by the Act hereby to be amended,) established (except the court of Charleston district, which shall sit the time by the said Act prescribed,) shall sit and adjourn from day to day, not exceeding six days, till the business thereof be dispatched, if all the business can be done in that time, but if not, what remains unfinished shall be continued or

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adjourned over to the next court; except also, the courts of Colleton and Beaufort districts, which shall respectively, in like manner, sit five days, and not longer; any thing in the aforesaid Act to the contrary in any wise notwithstanding.

CLAUSE 6. *And be it further enacted* by the authority aforesaid, That at the first holding of the said several district courts, established by the Act hereby to be amended, and once, at least, in every three years thereafter, it shall and may be lawful for one or more of the associate judges of this State for the time being, and they are hereby directed and required, to cause new jury lists to be made from the tax returns of such districts for the preceding year, which tax returns the sheriff of each district shall procure from the tax collector thereof, who is hereby required, without delay, to deliver the same to such sheriff, and the judge or judges attending at such court shall cause to be therefrom transcribed the names of such persons who are entitled, by the constitution of this State, to vote for members of the State Legislature, and shall put their names, in the manner prescribed by law, in the division of the jury box numbered one.

Juries.

CLAUSE 7. *And be it further enacted* by the authority aforesaid, That one or more of the associate judges aforesaid, during every time of holding of each of the said several and respective district courts, shall cause to be drawn, in the manner prescribed by law, the names of twenty-four persons to serve as grand jurors, and also, the names of forty-eight persons to serve as petit jurors and common pleas jurors, out of the division of the jury box of such courts numbered one, to serve as grand, petit and common pleas jurors at the next succeeding court for such district; and the said grand, petit and common pleas jurors shall be summoned and impannelled in like manner as grand, petit and common pleas jurors now are.

CLAUSE 8. *And be it further enacted* by the authority aforesaid, That a juror who shall be legally summoned to appear and serve at any of the courts established by the Act hereby to be amended, and shall neglect or refuse so to do, shall forfeit and pay a sum not exceeding twenty dollars, and seven per cent upon his general State tax for the year preceding, unless such person shall shew good and sufficient cause of excuse, upon oath, to any of the said judges, at the next sitting of the court after the sitting to which such person shall have been summoned to serve as aforesaid, to be recovered and applied in the same way and manner that fines for non-attendance of jurors are by law recovered and applied.

CLAUSE 9. *And be it further enacted* by the authority aforesaid, That the several and respective county courts now established and held in this State, shall, from and after the first day of January next, be, and the same are hereby, forever abolished.

County courts abolished.

CLAUSE 10. *And be it further enacted* by the authority aforesaid, That so much of the said Act hereby to be amended, as requires the suits, appeals and indictments which shall be depending in the courts of Charleston district on the first day of January next, to be continued in the district of Charleston, established by the said Act, be, and the same is hereby, repealed.

Charleston.

CLAUSE 11. *And be it further enacted* by the authority aforesaid, That if the day appointed by law for the holding and sitting of either of the district courts of this State, shall happen to be on Sunday, then such court shall be holden and sit on the day following.

CLAUSE 12. *And be it further enacted* by the authority aforesaid, That if one or more of the associate judges aforesaid, shall not attend and hold

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Acts relating to Courts.

In case of
absence of the
Judge.

such of the district courts in this State, on the day by law prescribed for the holding and sitting of such court, the clerk thereof, or his lawful deputy, shall open and adjourn such court from day to day, until one or more of the said judges shall attend and hold the same, or until the last day appointed for the holding thereof, on which said last day, the clerk, or in his absence, his deputy aforesaid, and in case of the absence of both, the sheriff or his deputy, shall adjourn the same unto the next court, to which time all actions depending in the said court shall be continued and have day.

Clerks, how to
be appointed,
&c.

CLAUSE 13. *And be it further enacted* by the authority aforesaid, That the Governor shall appoint as clerks, such persons as shall be recommended by a majority of the members of the Legislature, representing the several districts throughout this State, wherever the said office shall become vacant in the said districts respectively, to be commissioned during good behavior; and every such clerk shall, before he be commissioned as aforesaid, give bond in the sum of eight thousand dollars, with not less than two or more than ten surities, to be approved of by commissioners to be for that purpose appointed by the Legislature, payable to the treasurers of the State for the time being, and their successors in office, and shall deposit the said bond in the office of one of the treasurers aforesaid; and in case of any vacancy in the office of clerk, in any of the districts respectively, and no candidate can obtain the recommendation of a majority of the representatives as aforesaid, or their neglect to recommend a candidate for such vacant office, that the Governor for the time being, be, and he is hereby, authorized to appoint and commission as aforesaid, at his pleasure, any fit and proper person to such vacancy.

Their bonds,
how to be sued.

CLAUSE 14. *And be it further enacted* by the authority aforesaid, That it shall be lawful for any person or persons, body politic or corporate, to sue such bond for any breach of the condition thereof; and the said treasurers for the time being, or either of them, shall, on application to him or them for that purpose made, deliver a copy of such bond, by him or them certified, which copy so certified shall be sufficient evidence of such bond in any of the courts of this State.

Attorney's
fees.

CLAUSE 15. *And be it further enacted* by the authority aforesaid, That so much of the said Act hereby to be amended, as concerns the fees of attornies, be, and the same is hereby, repealed.

Court houses
and goals.

CLAUSE 16. *And be it further enacted* by the authority aforesaid, That the court houses and gaols for the districts hereinafter named, shall be erected and built at the places hereinafter mentioned, that is to say:—for Colleton district, in the village of Jacksonborough; for Marion district, at or near the plantation of Thomas Godbolt, sen. (but until the court house shall be built, the court for Marion district shall be held and sit at the house of Thomas Godbolt, jun;) for Barnwell district, at or near the plantation of John O'Bannion; and for Sumter district, at or near the plantation of John Gale, and until a court house shall be built, the court of the said district shall be held at the house of the said John Gale; and that John Peter Richardson, Reuben Long and John Ervin James, be appointed commissioners to contract for and superintend the building of the said court house and goal.

CLAUSE 17. *And be it further enacted* by the authority aforesaid, That any prisoner or prisoners whom it may be lawful and necessary to imprison, in any of the new districts, by the Act hereby to be amended, established,

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may be lawfully committed to and imprisoned in the goal of the old district, out of which such new district shall have been formed, until a sufficient goal shall have been provided for such new district.

CLAUSE 18. *And be it further enacted* by the authority aforesaid, That all Acts, laws, and parts of Acts, that are contrary to this Act, or repugnant to the true intent and meaning thereof, shall be, and the same are hereby, repealed. Repealing clause.

CLAUSE 19. *And be it further enacted* by the authority aforesaid, That if any attorney in this State shall demand or take any greater fee in any action of law or summons and petition, or for making defence in either of them, than is established by law, such attorney shall forfeit and pay the sum of fifty pounds sterling; to be recovered by any informer who shall inform and sue for the same, by action of debt for the penalty, in any court of record having jurisdiction. Penalty for taking unlawful fees.

In the Senate House, the eighteenth day of December, in the year of our Lord one thousand seven hundred and ninety-nine, and in the twenty-fourth year of the Independence of the United States of America.

JOHN WARD, *President of the Senate.*

WM. JOHNSON, Jr. *Speaker of the House of Representatives.*

AN ACT SUPPLEMENTARY TO AN ACT ENTITLED "AN ACT TO ESTABLISH AN UNIFORM AND MORE CONVENIENT SYSTEM OF JUDICATURE." No. 1737

I. *Be it enacted* by the honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That all writs and other process of law whatsoever, which shall have been sued and prosecuted, according to the existing laws, out of and from any of the courts of common pleas, or any of the county courts, of this State, on or before the first day of January next, and be depending, shall be deemed, to all intents and purposes whatsoever, and they are, and each of them is declared to be, by virtue hereof, legally tested, issued and returnable, respectively, to the court of that district to which they shall, from and after the day aforesaid, be by law respectively transferred, therein to be continued and have day; any law, usage or custom to the contrary in any wise notwithstanding; and that all the business now depending in the court of wardens shall be transferred, in manner aforesaid, to the court of common pleas of Charleston district. Process depending on the 1st January, 1800, how returnable.

II. *And be it enacted* by the authority aforesaid, That all judicial process shall be tested in the name of the senior associate judge, and signed by the clerk of any of the district courts of this State, and be sealed with the seal of such court, and be made returnable to the clerk of the court to which it shall be returnable, fifteen days next before the sitting of such court; and the said process shall and may be served in any district of the State. Process to be tested and sealed.

III. *And be it enacted* by the authority aforesaid, That in all cases where there shall be two or more defendants in any action, residing in different districts, the plaintiff in such action may try the same in the court of

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the district wherein either of the defendants shall reside, be arrested or taken.

How executions are to be issued and served after January 1, 1800.

IV. *And be it enacted* by the authority aforesaid, That every execution to be issued from and after the said first day of January next, out of or from any district court in the State, shall be issued from the court of the district in which verdict or judgment shall have been obtained, and shall be tested in the name of the senior associate judge, and be signed by the clerk, and sealed with the seal of such court, and shall be served by the sheriff of the district, or his deputy, wherein the defendant or his property may be found.

Process issued after January 1, 1800, shall bear test from January 1, 1800.

V. *And be it enacted* by the authority aforesaid, That any writ or other process of law whatsoever, which shall be issued out of and from any district court of the State, from and after the said first day of January next, returnable to such court at the next sitting thereof, after the day last aforesaid, shall bear test on the said first day of January next; any law, usage or custom to the contrary thereof in any wise notwithstanding.

Clerk of any district court, or justice of the quorum, authorized to give an order for bail, and take special bail.

VI. *And be it enacted* by the authority aforesaid, That the clerk of any district court, or any justice of the quorum in the district wherein he shall be resident, shall be, and hereby is, authorized and required to give, on proper affidavits to him for that purpose submitted, an order for reasonable bail, in any action wherein bail may be proper, but not a matter of course, which shall be commenced in such court; and also to take any recognizance of special bail, in due and legal form, in any cause which shall be depending in such court, and to certify and transmit the same to the judges or clerk thereof.

Writs of attachment, summonses in dower or in partition, demandable in district court.

VII. *And be it further enacted* by the authority aforesaid, That from and after the passing of this Act, it shall not be necessary to petition, as heretofore, any of the judges of the State for any writ of attachment, summons in dower, or in partition, but the same shall be, and hereby is declared to be, demandable of common right, and shall be of course sued and issued in common form out of any district court having jurisdiction in this State; any law, usage or custom to the contrary in any wise notwithstanding: *Provided always*, that no writ of attachment shall issue before the plaintiff has given bond to the defendant in double the amount for which the attachment issues, to be taken by and lodged with the clerk of the district, to be answerable for all damages which the defendant may sustain by any illegal conduct in obtaining said attachment.

Courts of Ordinary established.

VIII. *And be it enacted* by the authority aforesaid, That from and after the first day of January next, there shall be, and hereby is, established in each district in the State, a court of Ordinary, which said court shall have and possess the same power and authorities that heretofore have been vested in the courts of Ordinary in this State.

Judges appointed by the Legislature.

IX. *And be it enacted* by the authority aforesaid, That judges of the said courts of Ordinary shall be chosen by joint ballot of the two houses of the Legislature, which judges shall exercise and administer, each in the respective district for which he shall be appointed, all the powers of the court of Ordinary.

Empowered to summon persons.

X. *And be it enacted* by the authority aforesaid, That it shall and may be lawful to and for any judge of any court of Ordinary in this State, to issue a summons, directed to any person or persons whose testimony may be necessary for the investigation of any cause which shall be depending in his said court, which said summons shall be signed by the judge who shall issue the same, and sealed with the seal of the court whereof he shall be judge.

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XI. *And be it enacted* by the authority aforesaid, That all sheriffs and deputy-sheriffs are hereby authorized and required, duly to execute all summonses and other precepts whatsoever, to them or either of them directed by the judge of any court of Ordinary; and every person who shall, at any time or times hereafter, be duly summoned to attend and give evidence in any of the said courts of Ordinary, and shall refuse or neglect so to do, such person shall be subject to the same penalties and liable to be proceeded against in the same manner, by process of such court, signed and sealed as aforesaid, as if such person had refused to appear or give evidence, when thereunto lawfully required, in any district court of this State.

Sheriffs to execute process.

Persons neglecting to attend, to be proceeded against.

XII. *And be it enacted* by the authority aforesaid, That if any person or persons shall think themselves aggrieved by the judgment, sentence, decree, determination, denial or order of any of the courts of Ordinary, aforesaid, it shall and may be lawful for such person or persons to appeal therefrom, to the court of common pleas of the district in which the said court of Ordinary shall be holden, within twenty days next after such judgment, sentence, decree, determination, denial or order shall have been given.

Persons aggrieved, may appeal.

XIII. *And be it enacted* by the authority aforesaid, That the judge or judges who shall preside in the court of common pleas of any district within this State, shall, and he is, and they are, hereby expressly authorized, required and enjoined to receive, hear and determine, in the said court of common pleas, all, and all manner of appeal and appeals whatsoever, which shall, from time to time, be as aforesaid made thereto, from any judgments, sentence, decree, determination, denial or order of any court of Ordinary of such district, according to the customs, usage and practice, as heretofore used in case of appeal from the county courts; and that all matters of fact shall be tried by a jury.

Judges of the common pleas to determine appeals.

XIV. *And be it further enacted* by the authority aforesaid, That all the associate judges of this State shall meet at Columbia, on the Tuesday next after the conclusion of the circuits, in every year, for the purpose of determining all motions which may be made for new trials, and in arrest of judgment, and such points of law as may be submitted to them; but no such court shall be held in any of the cases aforesaid, by less than four of the said judges; nor shall any judge who shall have presided at the trial of any cause in any of the district courts of this State, ever sit or vote at such meeting of the said judges on the same cause, or any matter or thing whatsoever, which shall arise out of or shall concern the said cause; and that the judges aforesaid, in all matters of law by them decided on demurrer, special verdict, or motion in arrest of judgment, each shall give his opinion separately, with the reasons thereof, in writing, and subscribe the same, that it may be kept and filed with the record; and every judge shall, when thereunto required, sign and seal a bill of exceptions.

Judges to meet at Columbia.

Each judge shall give his opinion in writing.

XV. *And be it enacted* by the authority aforesaid, That if at any court directed by law to be held in the several districts throughout this State, two or more judges of session and common pleas shall attend, it shall be lawful for the said judges, severally, to hold, at the same time, a court of general sessions of the peace, oyer and terminer, assize and general goal delivery, and a court of common pleas, distinct from each other; and also to hold, distinct from each other, a court of common pleas for the trial of issues, and a court of common pleas for the execution of writs of enquiry, and for hearing and determining of causes within the summary jurisdiction of the said court.

If two or more judges attend, they may distinctly hold a court of sessions and common pleas.

XVI. *And be it enacted* by the authority aforesaid, That from and after

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Jurisdiction of a magistrate extends to debts of 20 dollars.

Either party may appeal.

the first day of January next, the jurisdiction of justices of the peace, and of justices of the quorum, throughout this State, shall extend to all matters of debt or other demand, arising from contract, and in no other case of a civil nature whatsoever, to twenty dollars, to be recovered by the same proceedings as have been heretofore used in the trial of causes small and mean, before such justices as aforesaid. But if either of the parties shall conceive him, her or themselves injured or aggrieved by the judgment, decree or sentence of any justice of the peace or quorum, where the debt or demand is for any sum above six dollars, such person or persons may have an appeal to the first court which shall be held for the said district wherein such judgment, decree or sentence is given or awarded, upon giving sufficient security to prosecute such appeal to effect, or, on failure thereof, to satisfy the costs and condemnation of the said court; and the said court shall hear and determine the said appeal, according to the justice of the case, and award execution against the person or persons cast therein.

Attornies fees in cases of appeal.

XVII. *And be it further enacted* by the authority aforesaid, That the attornies fees in those cases where it may be deemed necessary by either party to have an attorney, that the attorney's fees, in future, shall be only two dollars in all cases of appeal from the judgment of a justice of the peace or justice of the quorum.

Clerk of court constituted register.

XVIII. *And be it further enacted* by the authority aforesaid, That the clerk of the court of each district shall be, and is hereby, constituted register of mesne conveyance for the same, in those districts wherein county courts have heretofore been established, and in the following other districts, that is to say: Marion district, Colleton district, and Beaufort district.

Where the office of clerk is vacant, the judge shall appoint.

XIX. *And be it enacted* by the authority aforesaid, That if it shall so happen at any time, that there shall be a vacancy in the office of clerk of the court of common pleas of any of the districts, by reason of the death or resignation of any of the clerks thereof, or otherwise, and the same shall not be filled up, (as by law directed,) in time for the sitting of the court, then, and in every such case, the judge or judges, presiding or sitting at such court, shall and may appoint a proper person to act as clerk, during the sitting of the said court.

Former clerks and sheriffs to account to commissioners of roads.

XX. *And be it enacted* by the authority aforesaid, That it shall and may be lawfull for the commissioners of the roads in the several and respective counties throughout this State, to call on the late clerks and sheriffs of the said counties, and all other persons having any monies, bonds, notes or accounts in their hands belonging to the said counties, for the same; and the said persons are hereby directed and required to deliver up or pay over the same to the said commissioners of the roads, or their order, for the use of the poor of the said districts respectively.

All executions to be returned at the time appointed.

XXI. *And whereas*, many inconveniences have arisen, and still arise, by reason of the sheriffs and coroners of this State not returning executions lodged in their offices, as the law directs, notwithstanding the several laws already made to compel them; *Be it therefore enacted* by the authority aforesaid, That if any sheriff or coroner shall hereafter neglect or refuse to return any execution or executions that shall or may be lodged in their offices, with due returns thereon, as the law directs, and at the times appointed by law, every such sheriff or coroner shall, for every such execution not returned as aforesaid, forfeit and pay a sum not less than forty nor more than two hundred dollars, to any person who shall sue for the same, and shall not thereby be exonerated from such other pains and penalties as by law they are subject to; *provided*, nothing herein contained

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shall be construed to compel any sheriff or coroner to return any execution lodged in their offices expressly to bind property, and so marked by the persons lodging the same.

XXII. *And be it enacted* by the authority aforesaid, That hereafter, in all actions of trespass to try titles to lands, in all actions of trespass on the case, in all actions of trover, and in all actions of detinue, or any of them, brought to establish or try the right of title in any kind of property, if the plaintiff establishes his right of property therein, he shall, in every such case, recover and have his full costs of suit, wherein the verdict shall be above four dollars.

In all actions to try title, the plaintiff shall have costs, if the verdict is above four dollars.

XXIII. *And be it enacted* by the authority aforesaid, That hereafter, it shall not be necessary for any sheriff to have any witness or witnesses present at the service of any writ of *scire facias*.

Scire facias served without witness.

XXIV. *And be it enacted* by the authority aforesaid, That so much of an Act passed the twentieth December, in the year of our Lord one thousand seven hundred and ninety-one, as relates to the times and places of holding the courts of equity for Charleston, Columbia and Cambridge, be, and the same is hereby, repealed.

Times and places for cour. of equity, altered.

XXV. *And be it enacted* by the authority aforesaid, That the districts now established, be divided into four equity circuits, that is to say: the Eastern, Northern, Western and Southern; that the Eastern circuit shall consist of the united districts of Charleston, Colleton and Beaufort, the court of equity for which shall be held in the city of Charleston, on the first Monday in May and November, in every year; and also of the united districts of Georgetown and Marion, the court for which shall be held at Georgetown, on the first Monday in February, in every year; that the northern circuit shall consist of the united districts of Darlington, Marlborough and Chesterfield, the court for which shall be held at Greenville, in Darlington district, on the second Monday in February, in every year; and also of the united districts of Lancaster, Kershaw, Sumter, Richland and Fairfield, the court for which to be held at Kershaw court-house, on the third Monday in February and first Monday in December, in every year: that the Western circuit shall consist of the united districts of Spartanburgh, Union, York and Chester, the court for which shall be held at Union court-house, on the fourth Monday in February, in every year; and also of the united districts of Greenville, Laurens and Newberry, the court for which to be held at Laurens court-house, on the Monday next after the fourth Monday in February, in every year: that the Southern circuit shall consist of the united districts of Pendleton, Abbeville and Edgefield, the court for which shall be held at Abbeville court-house, on the second Monday next after the fourth Monday in February, in every year; and also of the united districts of Barnwell and Orangeburgh, the court for which shall be held at Orangeburgh court-house, on the third Monday next after the fourth Monday in February in every year.

Districts divided into four circuits.

XXVI. *And be it further enacted* by the authority aforesaid, That the sheriffs of the districts within the respective limits of which said courts shall be held, are enjoined and required to execute, or cause to be executed by his lawful deputies, all process from the court of equity in the several districts belonging to its jurisdiction as aforesaid; and that he shall attend, or cause his lawful deputy so to do, the said court of equity during the time of its sitting; that two of the said chancellors shall attend at each court of equity hereby established.

District sheriff to execute process issued from the court of equity.

XXVII. *And be it enacted* by the authority aforesaid, That all causes

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Commissioners in equity and registers to be appointed. of equitable cognizance, arising within any of the districts of this State, shall be tried and determined in the jurisdiction of circuits herein before described and marked out, and that commissioners in equity and registers, shall be appointed for each of the said equity circuits or districts, in the manner prescribed by an Act passed on the nineteenth day of February, one thousand seven hundred and ninety-one, entitled "An Act to establish a court of equity in this State."

Attorney-general and solicitors to revive suits of the public. XXVIII. *And be it enacted* by the authority aforesaid, That the attorney general and the several solicitors respectively, be, and they are hereby, authorized and required to proceed immediately to revive all suits, either at law or equity, commenced pursuant to the "Act to provide for the final settlement of the former commissioners of the treasury," passed the nineteenth day of February, one thousand seven hundred and ninety-one, against tax collectors and others, defaulters in making returns or payment of the public taxes, and that it shall be lawful to revive the same in the name of the commissioners of the treasury for the time being, unless otherwise provided for by law.

Suits pending, revived. XXIX. *And whereas*, many suits in the courts of equity have not been finished, for want of a competent number of judges, and it is but just and proper to prevent the said suits from being out of court, and also to prevent an unnecessary expense accruing by the revival of the said suits; *Be it therefore enacted* by the authority aforesaid, That all suits which were in court the day the late Chancellor Matthews resigned, be, and they are hereby declared to be, in court, and precisely in the same situation as they then were; any law, usage or custom to the contrary notwithstanding.

Sheriffs, &c. to qualify before two justices of the quorum. XXX. *And be it enacted* by the authority aforesaid, That any sheriff, or clerk of any court, or judge of the court of ordinary, or coroner of any district in the State, shall and may qualify and take the oaths by law prescribed to be taken by such sheriff, clerk and judge respectively, before any two justices of the quorum for the district for which such sheriff, clerk and judge as aforesaid shall have been appointed; and such justices of the quorum are hereby authorized and required to administer such oath.

Money appropriated for building court houses and goals. XXXI. *And be it enacted* by the authority aforesaid, That there shall be paid, out of any monies in the treasury not otherwise appropriated, the sum of five thousand dollars, and no more, for the purpose of erecting a goal and court-house in each district in the State, except Georgetown, Charleston, Orangeburgh, Beaufort and Kershaw districts; and the sum of ten thousand three hundred dollars for Colleton district.

Records of county courts to be transferred. XXXII. *And be it enacted* by the authority aforesaid, That all and singular the records of the several and respective county courts in this State, shall, from and after the first day of January next, be transferred into the district court in which such county shall be included, there to be kept and continued of record.

Clerks to grant commissions to examine witnesses. XXXIII. *And whereas*, by the laws of this State, as they at present stand, all persons having occasion for commissions from the court of common pleas to examine witnesses who are without the limits of this State, or such witnesses whose attendance cannot be procured by reason of their age, sickness or infirmity, are obliged to make application to one or more of the judges of the court of common pleas, whereby great delay, trouble and expense are often occasioned; *Be it therefore enacted* by the authority aforesaid, That hereafter, it shall and may be lawful for the clerk of the

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court of common pleas of any of the districts in this State, wherein any action or suit is depending, upon the application of any person interested therein, to grant a commission or commissions, to examine witnesses out of the State, or such witnesses whose attendance cannot be procured by reason of their age, sickness or infirmity, touching their knowledge of the matters and things in controversy and dispute between the parties in the said action or suit, in as full and ample a manner as if the said application had been made to one of the judges of the said court; *provided*, that ten days notice be given, and the other requisites in such case by law required, be complied with.

XXXIV. And *whereas*, it is often times troublesome, expensive and inconvenient to persons willing to be admitted the guardians of negroes, Indians, mulattoes and mustizoes claiming their freedom, to travel or take a long journey, in order to get their petitions for that purpose laid before one of the judges of the court of common pleas, as the law at present requires; *Be it therefore enacted*, That hereafter, it shall and may be lawful for such petitioners to file their petitions in the office of the clerk of the court of any of the districts, whereupon the said clerk shall admit such petitioners to be the guardians of such negroes, Indians, mulattoes or mustizoes; and such guardian or guardians so admitted, may bring, support and maintain an action or actions for the purpose of recovering, establishing and securing the freedom of such negroes, Indians, mulattoes or mustizoes, together with all such costs and damages as are usually allowed in such cases, by reason of their detention.

Persons willing to become the guardians of negroes, &c. to file their petitions.

XXXV. And *whereas*, lately, during the establishment of county courts in this State, a variety of matters and things, in such parts of the State where county courts were established, were referred and given to and confided in the said county courts, and to the judges thereof; and *whereas*, an Act is now passed by the Legislature, among other things abolishing the said courts, whereby it becomes necessary to provide for the arrangement of the said several matters and things, and to make the laws uniform throughout the State; *Be it therefore enacted*, That hereafter, the commissioners of the roads throughout the State, or a majority of them, in their respective districts, shall have full power and authority to order licences to be granted to proper persons to keep taverns and retail spirituous liquors, and also to persons to keep billiard tables; which licences, when ordered, shall be granted and delivered out upon the terms and conditions provided by law.

Commissioners of the roads may grant licences.

XXXVI. And *be it further enacted* by the authority aforesaid, That from and after the first day of January next, the same laws that are now in force relative to estrays, in such parts of the State where county courts have not been established, shall prevail, and are hereby declared to be the law of the land, throughout the State.

The laws relative to estrays.

XXXVII. And *be it further enacted* by the authority aforesaid, That all laws now of force relative to the late or present circuit courts or districts of this State, be construed to intend and relate to the new districts, and the courts thereof, now established, as far as the same are applicable, compatible or consistent with the laws made relative to the new districts.

All laws relative to circuit courts or districts, shall relate to the new districts.

XXXVIII. And *be it further enacted* by the authority aforesaid, That if any of the judges on the circuits shall, at any time, happen to be sick, or become indisposed, and unable to hold the courts in his circuit, it shall and may be lawful for his Excellency the Governor to appoint and commission some proper person to sit as judge, and hold the courts of sessions and common pleas in that circuit; and all acts and proceedings by and before

Where a judge shall be sick, the Governor may appoint a proper person to sit.

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such person so commissioned, shall be as valid as if had by and before any one or more of the judges of the courts of sessions and common pleas of this State.

Solicitors to
receive \$500
per annum.

XXXIX. *Whereas*, the duties of the solicitors are by the present arrangement of the circuits very considerably increased, and the business appertaining to their office much multiplied; *Be it therefore enacted* by the authority aforesaid, That they shall be respectively entitled to receive the sum of five hundred dollars per annum, to be paid by the treasurers quarterly in every year.

Judges to ap-
point a clerk to
attend at
Columbia.

XL. *And be it enacted* by the authority aforesaid, That the judges of the courts of law shall appoint a clerk, whose duty it shall be to attend at every meeting and sitting of the said judges at Columbia, after the conclusion of the circuits, and keep the records of the courts to be holden by the said judges, after the adjournment of the circuit courts, and make all such entries, and record all such orders, and file and keep all such necessary papers, as heretofore has been done by the clerk of Camden district; for which he shall be allowed the annual sum of one hundred and forty dollars. And it shall be the duty of the sheriff of Richland district to attend at every meeting and sitting of the said judges, after the conclusion of the circuits, to perform such official services as by the said judges shall be required; and he therefor shall be allowed, annually, the sum of fifty dollars.

Sheriff of
Richland dis-
trict to attend
the sittings.

Repealing
clause.

XLI. *And be it further enacted* by the authority aforesaid, That all Acts, laws, and parts of Acts, that are contrary to this Act, or repugnant to the true intent and meaning thereof, shall be, and the same are hereby, repealed.

In the Senate House, the twenty-first day of December, in the year of our Lord one thousand seven hundred and ninety-nine, and in the twenty-fourth year of the Independence of the United States of America.

JOHN WARD, *President of the Senate.*

WM. JOHNSON, Jr. *Speaker of the House of Representatives.*

No. 1761. AN ACT TO ESTABLISH A COURT OF INFERIOR JURISDICTION IN THE CITY OF CHARLESTON; AND TO EXTEND THE JURISDICTION OF MAGISTRATES THROUGHOUT THE STATE, EXCEPT THOSE RESIDENT IN THE CITY OF CHARLESTON.

Preamble.

WHEREAS, great inconveniences have arisen from the abolition of the jurisdiction of the court of inferior jurisdiction, in the city of Charleston, as well to the citizens of Charleston, from the peculiar modes of doing business in the city, as to the suitors and persons having business in the district court, by reason of the great accumulation of causes therein; and *whereas*, the citizens of Charleston have by their memorial stated divers grievances, and prayed the interference of the Legislature in this behalf.

Court estab-
lished.

I. *Be it therefore enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That from and after the first day of March next, a court for the hearing and determining of causes of a civil nature, arising

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within the limits of the said city of Charleston, and for the trial of all offences against the by-laws of the city of Charleston, shall be, and the same is hereby, constituted, established and authorized, to be a court of record, possessing concurrent jurisdiction with the courts of sessions and common pleas, to the amount hereinafter declared and limited; and which concurrent jurisdiction with the court of sessions, shall be confined entirely to such offences as are against the by-laws of the corporation, and shall not extend to corporal punishment.

II. *And be it further enacted* by the authority aforesaid, That the said court hereby erected, directed and established, shall be called the Inferior City Court, and be held by the Recorder of the city of Charleston; and that the city council shall fix and provide such compensation for the recorder as may be fit and proper, and proportioned to the importance of his station, and which compensation shall not be increased or diminished during his continuance in office, to be paid by the city tax; and the said recorder shall hold his commission during good behavior.

To be holden
by the recorder.

III. *And be it further enacted* by the authority aforesaid, That all issues, controversies and litigations in the said court, of which the value shall exceed the sum allowed by law for the jurisdiction of a single magistrate, shall be tried by a jury, according to the regulations and forms prescribed by law in cases of trial by jury; and to that end, the city council of Charleston shall cause a jury box for the said city to be made, and a jury list to be provided for the same; from which box, jurors shall be drawn, summoned and empanelled for the trial of causes, in like manner, and under the same penalties, as are established by law and usage in the court of sessions and common pleas; *Provided*, that no *venire facias* shall at any time issue for more than twenty-four jurors, to serve at one court, any twelve of whom attending, shall form a jury; and in case of non-attendance of the jurors so drawn and summoned, their places may be supplied by talesmen, drawn in the usual mode; but no person shall be liable to serve twice, until all the names in the said jury box shall be drawn out. All persons possessing the qualifications prescribed for jurors by the laws of the State, and usually residing in the city, or who have resided therein for six months before their being drawn, and there being at the time of being drawn and summoned, shall be liable to serve as jurors in the said court; saving and reserving to all persons, all lawful excuses and exemptions, as in other courts.

Trials in said
court to be by
jury.

IV. *And be it further enacted* by the authority aforesaid, That the jurisdiction of the said court shall and may extend to the maintaining of all actions, suits and prosecutions, for the recovery of any debt or sum of money arising on contract, express or implied; and for offences against the by-laws of the corporation of Charleston; *Provided*, that no verdict or judgment in the said court shall exceed one hundred dollars in any one action, exclusive of costs and charges; *and also provided*, that no suit or action shall be brought or maintained in the said court, unless the contract or cause of action hath been made or arose within the limits of the said city of Charleston; and that between persons resident in the said city, or between persons resident and foreigners, or between foreigners at the time of said contract or cause of action, or citizens of the United States. But nothing herein contained shall be construed to bar any person from suing any person resident in the said city, (in the said court,) for any sum not exceeding one hundred dollars, exclusive of costs as aforesaid.

Jurisdiction
thereof design-
ated.

V. *And be it further enacted* by the authority aforesaid, That no citizen

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liable to be
sued therein.

of this State, not having resided within the limits of the city for three months immediately preceding the commencement of the suit, process or action, or who shall not have been in the habit of residing there during four months in the year, preceding the commencement of the suit, shall be liable to be sued in the said court.

Manner of pro-
ceeding in said
court.

VI. *And be it further enacted* by the authority aforesaid, That the court hereby established and authorized, shall hold its term and sitting on the first Monday in every two months, for the dispatch of business, and may continue to sit for any time not exceeding six days; and all issues and business not then disposed of, shall be considered as adjourned over to the succeeding term; and all motions for new trial, in arrest of judgment, and all other questions of law, may be moved for on the second Monday of each term, and the court shall and may sit three days for hearing and determining such motions and questions. All writs and process shall be issued by the clerk of the said court, and shall be made returnable to the first day of the term next succeeding the issuing of the same; and the defendant, upon entering special bail, if required, shall, in all cases, be entitled to imparl until the last day of the said term; at which time, or within ten days thereafter, the defendant shall file his plea or defence, in writing, with the clerk of the court, or the plaintiff may take judgment by default; *Provided*, that where judgments are taken by default between the first and second term, no execution shall be enforced thereon till after the second day of the succeeding term; and the defendant may, at the meeting of the court, on the first day thereof, move to be let into any substantial defence, upon condition of pleading issuably instanter, and going to trial during that term.

Power of the
court defined.

VII. *And be it further enacted* by the authority aforesaid, That the said city court of Charleston shall be, and it is hereby, invested with power and authority to grant rules; to hear and determine motions for new trial, in arrest of judgment; and all questions of law arising out of causes within its jurisdiction; to issue subpoenas for the attendance of witnesses; to grant commissions for the examination of witnesses; to issue executions of *fieri facias*, against the real and personal property of defendants; to issue writs of *capias ad respondendum*, and also writs of *capias ad satisfaciendum*; to punish for contempts; and also all other the usual process, according to the known and approved rules of the common law, and of the Acts of the Assembly in such cases provided. But it is hereby declared and provided, that no process or writ issuing out of the said court, shall extend or be of force for service or execution out of the limits of the said city, except commissions to examine witnesses; and that all writs shall be served and returned ten days before the sitting of the court aforesaid.

Not to try
titles to land.

VIII. *And be it further enacted* by the authority aforesaid, That in all controversies where the title of lands shall be brought directly into question, so as to be a material part of the issue, the said court shall not hold plea thereof, or proceed thereon, but the cause shall be moved by *certiorari* into the district court, and the plaintiff shall be obliged so to remove it, or a non-suit be entered against him, and costs of suit taxed, as in other cases of non-suit.

Appeals may
be made from
decisions
therein.

IX. *And be it further enacted* by the authority aforesaid, That whenever any party shall think himself aggrieved by any decision or proceeding of the said court, it shall and may be lawful to appeal to the judges of the court of common pleas, by *certiorari*, writ of error, or bill of exceptions; and the said judges shall revise and consider the same, and make such

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A. D. 1801.

order therein as may be consonant with law and justice. Writs of mandamus and prohibitions shall and may issue from the courts of common pleas and sessions into the said court, as usual.

X. *And be it further enacted* by the authority aforesaid, That it shall be lawful for the intendant and wardens, and the said recorder, to prescribe, and from time to time to regulate, the practice of the said court, and of the attornies therein, conformably to this Act, and as nearly as may be to the forms and rules used in the courts of law in this State.

How the practice of the court may be regulated.

XI. *And be it further enacted* by the authority aforesaid, That fees of attornies, and of the clerk and sheriff, in the said court, shall be, in all respects, the same as are now allowable by law in the summary jurisdiction of the court of common pleas, to which it shall and may be lawful for the city council to prescribe and add any sum not exceeding one dollar, on each cause, to defray the extraordinary expense which the said city may incur by reason of the establishment of the court hereby established.

Fees of attornies, clerk and sheriff.

XII. *And be it further enacted* by the authority aforesaid, That the said recorder shall not be permitted to plead in a superior court in any cause which has been argued before or adjudged by him; and that any person shall have a right to appeal from the judgment of the said court, to the superior court of sessions or common pleas within the said district, on making oath that he verily believes he has substantial justice on his side, and that he does not appeal merely to delay the operation of law and justice.

Recorder not to plead in certain cases.

Oath to be made by appellant.

XIII. *And be it further enacted* by the authority aforesaid, That justices of the peace and of the quorum, except in the city of Charleston, throughout the State, shall have jurisdiction in all cases of debt, secured by bond, note or bill, or liquidated account, to the amount of thirty dollars; *Provided always, nevertheless*, that all judgments to be given by magistrates as aforesaid, for the sum of thirty dollars, shall not be enforced under three months, if the defendant shall give bond and approved security, that he will produce sufficient property to answer said debt at the expiration of the said three months; and that all other judgments to be given by such magistrate for any other sum above the sum of twenty dollars, shall not be enforced for two months, if the defendant shall give bond and security to produce sufficient property to answer said debt at the expiration of the said two months; and *provided always*, that nothing in this Act contained shall extend to preclude any person or persons who may conceive him, her or themselves to be aggrieved by the decision of any magistrate, from the right of an appeal, as by law is in other cases provided.

Jurisdiction of magistrates extended.

XIV. *And be it further enacted* by the authority aforesaid, That the keeper of the goal in Charleston district, be, and he is hereby, authorized and required to receive into his custody all such prisoners as shall be committed to such goal, under the authority of the said court hereby established, and there to keep in safe custody all such prisoners, until discharged by due course of law.

Prisoners to be committed to the district goal.

In the Senate House, the nineteenth day of December, in the year of our Lord one thousand eight hundred and one, and in the twenty-sixth year of the Independence of the United States of America.

JOHN WARD, *President of the Senate.*

THEODORE GAILLARD, *Speaker of the House of Representatives.*

A. D. 1808.

Acts relating to Courts.

No 1911. AN ACT FOR THE BETTER ARRANGEMENT OF THE SITTINGS OF THE COURTS OF EQUITY; FOR THE ESTABLISHMENT OF COURTS OF APPEAL FOR THE SAME; AND FOR OTHER PURPOSES THEREIN MENTIONED.

The State divided into equity circuits.

I. *Be it enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the State shall be divided into three circuits for the court of Equity, to wit: the southern, the northern, and the western; that the present common pleas districts of Charleston, Colleton and Beaufort, united, shall form the southern circuit of the court of equity; that the present common pleas districts of Georgetown, Horry, Marion, Williamsburgh, Darlington, Marlborough, Chesterfield, Lancaster, Kershaw, Sumter, Fairfield, Richland and Lexington, united, shall form the northern circuit of the court of equity; and the present common pleas districts of Orangeburgh, Barnwell, Edgefield, Abbeville, Pendleton, Greenville, Spartanburgh, Union, York, Chester, Laurens and Newberry, united, shall form the western circuit of the court of equity.

The State divided into equity districts.

II. *And be further enacted* by the authority aforesaid, That the districts of Charleston, Colleton and Beaufort, united, shall form one equity district, to be called Charleston district, the courts for which shall sit at Charleston court house on the third Monday of February and the first Monday of November in every year; that the districts of Georgetown, Horry, Marion and Williamsburgh, united, shall form one other equity district, to be called Georgetown district; and the districts of Orangeburgh and Barnwell, united, shall form one other equity district, to be called Orangeburgh district; the courts of Georgetown and Orangeburgh districts shall be held at Georgetown and Orangeburgh court-houses, on the first Mondays of February and June, in every year; that the districts of Darlington, Marlborough and Chesterfield, united, shall form one other equity district, to be called Cheraw district; and the districts of Edgefield, Abbeville and Pendleton, united, shall form one other equity district, to be called Ninety-Six district; the courts of Cheraw and Ninety-Six shall be held at Cheraw and Abbeville court-houses, on the second Monday of February and June, in every year; that the districts of Lancaster, Kershaw and Sumter, united, shall form one other equity district, to be called Camden district; and the districts of Greenville, Laurens and Newberry, united, shall form one other equity district, to be called Washington district; the courts for the districts of Camden and Washington shall be held at Kershaw and Laurens court-houses on the third Mondays of February and June, in every year; that the districts of Fairfield, Richland and Lexington, united, shall form one other equity district, to be called Columbia district; and the districts of Spartanburgh, Union, York and Chester, shall form one other equity district, to be called Pinckney district; the courts for Columbia and Pinckney districts shall be held at Richland and Union court-houses on the fourth Mondays of February and June, in every year.

Judges to attend and hold court.

III. *And be it further enacted* by the authority aforesaid, That one of the judges of the court of equity is hereby authorized and required to attend at the several times and places above mentioned, and to hold the courts of equity for the several districts hereby established; and that the orders and decrees of the said judges, in all cases wherein appeals shall not be made to the courts of appeals hereinafter established, shall have the same effect with decrees sanctioned by the courts of appeal.

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A. D. 1868.

IV. *And be further enacted* by the authority aforesaid, That a court of appeal for the court of equity shall be, and the same is hereby, established: which said court shall exercise appellate jurisdiction in all cases brought up from the circuit, and shall be holden at Charleston court-house for the southern circuit, on the first Monday in January, and on the second Monday in March, in every year, and at Richland court-house, for the northern and western circuits, on the first Tuesday next after the ending of the common pleas circuits, in every spring and fall of the year; and it shall be the duty of all of the judges of the court of equity to attend at the said courts of appeal, and to hear and try all appeals that may be brought up from the circuits hereby annexed to the said courts, respectively.

Courts of appeal established.

V. *And be it further enacted* by the authority aforesaid, that any person who wishes to appeal from any order or decree of any judge presiding on the circuit, shall, before the rising of the court at which such order or decree is made, state, in writing, the grounds upon which he intends to appeal, and deliver the same to the said judge, and serve the opposite party, or his solicitor, with a notice thereto annexed, that he intends to appeal from the said order or decree, at the next court of appeals for the said circuit; and that the said appellant shall thereafter be at liberty to move to have copies of all the necessary papers sent up to the court of appeals, and to place his cause upon the docket of the same, at any time before the sitting of the court, without being subject to any other rules or forms heretofore adopted.

Appeals, how to be made.

VI. *And be it further enacted* by the authority aforesaid, That it shall hereafter be in the power of any one judge in equity, in chambers, to make orders of reference to the master or commissioner, in any cause depending in the court of equity, which is ready for a reference, before the final hearing of the same; *provided*, the party applying for such reference shall have given ten days notice to the opposite party, of the time and place and judge before whom he means to make a motion for such reference.

Judges may make orders of reference in chambers.

VII. *And be it further enacted* by the authority aforesaid, That it shall be the duty of the judges in equity to make all further rules and regulations which may be necessary to carry this Act, and all former Acts respecting the said court, more fully into effect.

Judges may make rules and orders.

VIII. *And be it further enacted* by the authority aforesaid, That all papers appertaining or relating to causes in the court of equity, which have heretofore arisen in those districts by this Act comprehended in Columbia district, shall be transferred to the office of the commissioner of the said district; and that a commissioner in equity shall be appointed as heretofore by the Governor, for the said district, who shall exercise all the powers as a master and register in equity, both for the circuit court and the court of appeals to be holden at Richland court-house, as by this Act is directed.

Papers to be removed to Columbia.

Commissioner to be appointed for Columbia.

IX. *And be it further enacted* by the authority aforesaid, That the sheriff of Richland for the time being, is hereby authorized and required to exercise all the duties of a sheriff in the court of equity, both for the district of Columbia and the court of appeals hereby established at Richland court-house.

Sheriff of Richland to attend the court at Columbia.

X. *And be it further enacted* by the authority aforesaid, That in addition to the present number of judges of that court, there shall be elected two judges, who shall be commissioned in the same manner and perform the same services as the present judges of the said court.

Two additional judges to be elected.

XI. *And be it further enacted* by the authority aforesaid, That all the judges of the court of equity, who shall be hereafter appointed, shall

Their salaries fixed.

A. D. 1808.

Acts relating to Courts.

receive the same salaries as the judges of the courts of common pleas and sessions are at present entitled to receive by law.

Writs, how to
be formed and
served.

XII. *And be it further enacted* by the authority aforesaid, That all writs of subpoena *ad respondendum*, issuing out of the said court of equity, shall require the defendant or defendants to appear in the said court on a day certain, and shall also require the defendant or defendants to file his, her or their plea, answer or demurrer, within thirty days next after the day so appointed and expressed in the said writ, for his, her or their appearance, as aforesaid; and that the said writ shall be served at least ten days before the appearance day therein expressed.

Time to plead
may be extend-
ed.

XIII. *And be it further enacted* by the authority aforesaid, That the master or commissioner of the said court, or one of the judges in chambers, shall have power, on good cause shewn, on oath, to extend the said time to plead, answer or demur, for such period as shall be deemed necessary; *provided*, the same does not extend beyond the time appointed for docketing the causes for the next court in the district where the cause may be depending in which such order for extension is made.

Defendant or
defendants to
answer.

XIV. *And be it further enacted* by the authority aforesaid, That in case the said defendant or defendants shall not file his, her or their plea, answer or demurrer, within the time limited, as aforesaid, for the same to be filed, that the register or commissioner of the court where the cause may be depending, shall, at the expiration of the said time, grant an order that the bill shall be taken *pro confesso*; and unless the said order shall be set aside as hereinafter directed, the court shall make such decree therein as to the said court shall appear just and equitable, and issue the process necessary to enforce the execution or compel the performance of the said decree.

Order of court
may be set
aside on appli-
cation.

XV. *And be it further enacted* by the authority aforesaid, That whenever an order shall be granted as aforesaid, that the bill shall be taken *pro confesso*, the court shall have power, on application of the defendant or defendants, to set aside the same on such terms as the said court may prescribe.

Attachment
may be issued.

XVI. *And be it further enacted* by the authority aforesaid, That whenever there shall be granted, as aforesaid, an order that the bill shall be taken *pro confesso*, on application of the complainant or his solicitor, stating that the answer of the defendant or defendants is necessary to enable the court to pronounce their final decree, the commissioner or register shall issue an attachment against the said defendant or defendants, to compel such answer in the usual form; and that no previous rule, requiring the said defendant or defendants to shew cause why such attachment should not issue, shall be necessary.

Powers of the
master and
commissioners
in equity.

XVII. *And be it further enacted* by the authority aforesaid, That the master of the court of equity shall, in all cases arising or pending within the equity district of Charleston, aforesaid, have the same power and authority as a judge at chambers, to grant orders for writs of *ne exeat* and attachment, in all cases of practice; and that the commissioners in equity, in the several other districts, shall, in all cases arising or pending within their respective districts, have power to issue writs of *ne exeat* and attachments, in all like cases, without any previous order, upon such evidence and under such circumstances as would authorize a judge at chambers to make orders therefor.

Former Acts
repugnant to
this, repealed.

XVIII. *And be it further enacted* by the authority aforesaid, That all Acts or parts of Acts, usages and customs, repugnant to this Act, be, and the same are hereby, repealed.

XIX. *And be it further enacted* by the authority aforesaid, That from

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and after the passing of this Act, the circuit court of common pleas for Charleston district, shall be held on the third Monday of January in every year, instead of the second Monday of that month, as heretofore by law established.

Circuit court of common pleas in Charleston, when to sit.

XX. *And be it further enacted* by the authority aforesaid, That all writs and other process, and all rules and other proceedings, returnable or continued to the said circuit court on the second Monday of January next ensuing, as heretofore prescribed by law, shall be, and the same are hereby, declared good and valid, and they shall be in law considered as returnable and continued to the third Monday of January next ensuing; and also that the several venires under which persons have been or may be summoned to serve as jurors of the said court, on the second, third, fourth and fifth Mondays of January next ensuing, and on the first Monday of February next ensuing, shall be considered in law as returnable on the third, fourth and fifth Mondays of the said months of January, and first and second Monday of the said month of February; and that the said persons shall be bound to attend and serve accordingly.

Writs and other process, when returnable.

XXI. *And be it further enacted* by the authority aforesaid, That from and immediately after the passing of this Act, there shall be no other or higher fees taken in any suit in the court of equity, than the following, viz :

Fees established.

Master and Commissioner in Equity's Fees.

For every summons, thirty-seven and a half cents; taking every affidavit in writing, twenty-five cents; for every oath administered, six and a quarter cents; taking every recognizance, forty cents; taking the oaths for every defendant to answer, out of office, and attendance, one dollar; for every attendance in office on a reference by order of court, on the summons of either party, or their solicitors, seventy-five cents; hearing and determining any contested matter, or order thereon, other than by order of reference, one dollar; making up and returning every report into court, but only one report to be charged in each suit, three dollars; commissions on sales under decrees of the court, two and a half per cent. for the first hundred, and one per cent. on all sums above; for drawing each set of conveyances, five dollars.

Register and Commissioner in Equity—Fees.

For affixing the seal of the court to subpoena or other writ, and signing the same, twenty-five cents; for affidavit of service of subpoena or other writ, twenty-five cents; for examining witnesses and taking down their depositions, nine cents per copy sheet; exemplifications of proceedings in any cause, if required, nine cents per copy sheet; for all other office copies, if required, nine cents per copy sheet; a copy sheet to consist of ninety words; for every search, twelve and a half cents; but not more than one dollar for all searches which may be necessary in any cause; for entering every cause for hearing, twelve and a half cents; examining decree, affixing seal thereto, and attending the judges in court to sign certificates of examination, one dollar; notifications to insert in gazette by order of court, and attendance on printer, thirty-one and one quarter cents; for affixing every seal, and signing every commission to take answers and examine witnesses, or for other purposes, fifty cents.

Solicitors's Fees in Equity.

Complainant's Solicitor: Preparing and filing a bill in equity, with all necessary exhibits, twenty dollars; drawing interrogatories in chief for

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complainant's witnesses, and cross interrogatories, drawing and engrossing commissions, and attending to strike commissioners where necessary, with proper instructions, ten dollars; arguing exceptions on points of law, before the master, or judge at chambers, where necessary, and attending thereon, including all charges incidental thereto, five dollars; for making and serving the briefs on the circuit judge, five dollars; and on the judges of appeal, ten dollars: drawing and engrossing decree, per copy sheet of ninety words, nine cents.

Defendant's Solicitor: For preparing and filing defendant's answer, and all necessary exhibits, twenty dollars; drawing interrogatories in chief for defendant's witnesses, drawing and engrossing cross interrogatories and commissions, attending to strike commissioners attending, where necessary, with instructions, ten dollars; arguing exceptions on points of law, before the master, or judges at chambers, when necessary, including notices, attendance, and all incidental charges relative thereto, five dollars; for making and serving briefs on the circuit judge, five dollars; and on the judges of appeal, ten dollars; drawing and engrossing decree, per copy sheet of ninety words, nine cents; for drawing and presenting any petition, and all exhibits which may relate thereto, and briefs, if necessary, ten dollars.

Penalty for unlawful fees.

XXII. *Be it enacted* by the authority aforesaid, That the foregoing list of fees shall be, and the same is hereby, established by law; and that if any of the officers therein mentioned, shall take or receive any other or greater reward for the services therein mentioned, or shall invent or contrive any other or further fee or reward for any of the said services, with intent to evade this law, then, and in every such case, the person or persons so offending, upon due proof and conviction, shall forfeit and pay the sum of two hundred dollars for each and every such offence, one half to the informer, and the other half to the State.

XXIII. *And be it enacted*, That no charge shall be allowed for copies not actually granted.

In the Senate House, the fifteenth day of December, in the year of our Lord one thousand eight hundred and eight, and in the thirty-third year of the Sovereignty and Independence of the United States of America.

SAMUEL WARREN, *President of the Senate.*

THEODORE GAILLARD, *Speaker of the House of Representatives.*

No. 1937. AN ACT TO PROVIDE FOR THE MORE EASY AND EXPEDITIOUS ADMINISTRATION OF JUSTICE IN THE COURTS OF THIS STATE.

I. *Be it enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That in all actions now pending, or hereafter to be brought on any liquidated demand, wherein the defendant or defendants shall have suffered an order for judgment to be entered against him or them, it shall not be necessary for the plaintiff or plaintiffs to prove his or their demand, or execute a writ of enquiry; but the same shall, upon motion to the court, be referred to the clerk to ascertain the sum actually due, and judgment shall be entered up accordingly for the sum so ascertained; and the

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clerk shall be intitled to receive twenty-five cents for the same; *provided always*, that nothing herein contained shall deprive the defendant or defendants of the right of setting aside the order for judgment, and making such defence as is now allowable by the rules and practice of the court.

II. *And be it further enacted* by the authority aforesaid, That in all cases of summons and petition on liquidated demands now pending, or hereafter to be brought, in which the defendant or defendants shall make no defence, it shall not be necessary for the plaintiff or plaintiffs to prove his or their demand, but on motion to the court, decree shall be entered as if the same had been proved.

III. *Be it further enacted* by the authority aforesaid, That in all actions hereafter to be brought, wherein the defendant or defendants shall be held to bail by the sheriff serving the writ or process, the bail so given to the sheriff shall be entitled to all the rights, privileges and powers of special bail, and may surrender his principal in discharge of himself, or the principal surrender himself in discharge of his bail, in the same manner and to the same extent as special bail are now intitled to; any law, usage or custom to the contrary in any wise notwithstanding.

III. *Be it further enacted* by the authority aforesaid, That it shall not be necessary hereafter for any bail to obtain a judge's order for leave to surrender his principal.

IV. *And whereas*, the times of holding the courts hereinafter mentioned, has been found to be inconvenient to many of the inhabitants of this State; for remedy whereof, *Be it enacted* by the authority aforesaid, That from and after the conclusion of the next southern circuit, the courts of general sessions and common pleas shall be holden at the times following, instead of the times now established by law, that is to say: at Granby, for Lexington district, on the second Monday in March and October, in every year; at Columbia, for Richland district, on the third Monday in March and October, in every year; at Newberry court-house, for Newberry district, on the fourth Monday of March and October, in every year; at Edgefield court-house, for Edgefield district, on the first Monday after the fourth Monday in March and October, in every year; at Barnwell court-house, for Barnwell district, on the second Monday after the fourth Monday in March and October, in every year; and at Orangeburgh, for Orangeburgh district, on the third Monday after the fourth Monday in March and October, in every year.

In the Senate House, the nineteenth day of December, in the year of our Lord one thousand eight hundred and nine, and the thirty-fourth year of the Independence of the United States of America.

SAMUEL WARREN, *President of the Senate.*

JOSEPH ALSTON, *Speaker of the House of Representatives.*

A. D. 1810.

Acts relating to Courts.

No. 1976 AN ACT ESTABLISHING A COURT OF EQUITY IN AND FOR THE DISTRICT OF BEAUFORT; AND FOR OTHER PURPOSES.

WHEREAS, sundry inhabitants of Beaufort district, have, by their petition to the Legislature, represented the great inconveniences they suffer from their remote situation from the Court of Equity :

I. *Be it therefore enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That from and after the passing of this Act, the district of Beaufort shall constitute an equity district in the southern equity circuit.

II. *And be it further enacted* by the authority aforesaid, That one of the judges of the court of equity is hereby authorized and required to attend and to hold a court of equity at Coosawhatchie court-house, on the last Monday of January and May, in each year, for the trial of all causes of equitable cognizance arising within the district, subject to the same rules and regulations that the courts of equity in other districts in this State are by law subject to; *provided nevertheless*, that the said court shall not continue its sittings longer than six days at any one time.

III. *And be it further enacted* by the authority aforesaid, That a commissioner in equity, having all the powers and being liable to perform all the duties of a master and register in equity, be immediately appointed by the Governor, who shall give bond, with two sureties, to be approved of by the Governor, in the sum of four thousand dollars, for the faithful performance of the duties of his office.

IV. *And be it further enacted* by the authority aforesaid, That the sheriff of Beaufort district for the time being, is hereby authorized and required to attend upon the said court, and to exercise all the duties of a sheriff in the court of equity.


V. *And be it further enacted* by the authority aforesaid, That all suits which have arisen in Beaufort district, and been commenced in the court of equity in Charleston, and all papers appertaining or relating thereto, shall be transferred to the office of the commissioner in equity for Beaufort district.

VI. *And be it further enacted*, That the first court to be holden under this Act, shall be holden on the last Monday in May next.

VII. *And be it further enacted* by the authority aforesaid, That all sales of property levied upon in St. Helena parish, by the sheriff of Beaufort district, shall hereafter take place at the vendue house in the town of Beaufort, on the second Monday and the Tuesday following, in every month, and at no other time or place.

VIII. *And whereas*, doubts have been expressed whether the court of equity can continue any cause in the said court for a longer time than three years, even with the consent of the parties; *Be it therefore enacted*, That the said court of equity may, and they are hereby, authorized to continue any cause depending in the said court for a longer time than three years, by consent of the said parties; and, without such consent, on good and sufficient cause shewn, in any case where there shall have been pronounced any decretal order within the term of three years from the time of filing the bill.

IX. *And be it enacted* by the authority aforesaid, That John C. Allen, John A. O'Bannon, Lark Robertson, Joseph Duncan and Orsmus D. Allen, be, and they are hereby, appointed commissioners to apply the monies

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already appropriated for building a goal in Barnwell district, to the repairing of the old goal of said district, or to build a new one of wood, if they should think it more to the advantage of the public.

X. *And be it further enacted* by the authority aforesaid, That the courts of equity and appeals shall be holden in Charleston at the times following, instead of the times now established by law, that is to say : the courts of Equity to sit on the third Monday in February, and the court of Appeals on the second Monday in March ; any law to the contrary hereof notwithstanding.

XI. *And be it further enacted* by the authority aforesaid, That all Acts or parts of Acts repugnant to this Act, be, and the same are hereby, repealed.

In the Senate House, the nineteenth day of December, in the year of our Lord one thousand eight hundred and ten, and in the thirty-fifth year of the Sovereignty and Independence of the United States of America.

SAMUEL WARREN, *President of the Senate.*

JOHN GEDDES, *Speaker of the House of Representatives.*

AN ACT TO REGULATE THE COURTS HELD BY THE ASSOCIATE JUDGES No. 1990.
OF THIS STATE AT THE CONCLUSION OF THEIR RESPECTIVE CIRCUITS;
AND OF THE COURTS OF APPEALS HELD BY THE JUDGES OF THE
COURTS OF EQUITY WITHIN THIS STATE ; AND FOR OTHER PURPOSES
THEREIN MENTIONED.

WHEREAS, in and by the third section of the tenth Article of the constitution of this State, it is declared "that at the conclusion of the circuits, the judges shall meet and sit at Columbia, for the purpose of hearing and determining all motions which may be made for new trials, and in arrest of judgment, and such points of law as may be submitted to them. From Columbia they shall proceed to Charleston, and there hear and determine all such motions for new trials and in arrest of judgment, and such points of law as may be submitted to them." And *whereas*, in and by the Act of the General Assembly of this State, passed at Columbia on the twenty-first day of December, in the year of our Lord one thousand seven hundred and ninety-nine, entitled "An Act supplementary to an Act entitled An Act to establish an uniform and more convenient system of judicature," it is among other things therein contained and enacted, "that all the associate judges of this State, shall meet at Columbia on the Tuesday next after the conclusion of the circuits in every year, for the purpose of determining all motions which may be made for new trials, in arrest of judgments, and such points of law as may be submitted to them ; but no such courts shall be held in any of the cases aforesaid, by less than four of the said judges ; nor shall any judge who shall have presided at the trial in any cause in any of the district courts of this State, ever sit and vote at such meeting of the said judges on the same cause, or any matter or thing whatsoever, which shall arise out of or shall concern the said cause ; and the judges aforesaid, in all matters of law by them decided on demurrer,

Preamble.

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special verdict, or motion in arrest of judgment, each shall give his opinion separately, with the reasons thereof in writing, and subscribe the same, that it may be kept with the record; and every judge shall, when thereunto required, sign and seal a bill of exceptions." And *whereas*, the true intent and meaning of the above recited section of the aforesaid Article of the constitution of this State, demonstrates that there should be an exact and direct conformity in the meeting and sitting of the judges aforesaid, for the purpose aforesaid, both at Columbia aforesaid, and at Charleston aforesaid, that one and the same measure of justice may pervade the State.

I. *Be it therefore enacted and declared*, by the honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the above recited clause of the Act of the General Assembly aforesaid, ought to be extended, and the same is hereby extended in every particular, to the meeting and sitting of the associate judges aforesaid, for the purposes aforesaid, at Charleston aforesaid, on their said adjournment to Charleston from Columbia aforesaid, in the same manner, to all intents and purposes, as is above directed with respect to their meeting and sitting at Columbia aforesaid, at the conclusion of the circuits.

Opinions to be
recorded.

II. *And be it further enacted* by the authority aforesaid, That for the purpose of rendering the same as beneficial as possible to the citizens of this State, proper and fit books shall be provided and kept by the clerks of the said courts respectively, both at Columbia aforesaid, and at Charleston aforesaid, whose respective duty it shall be to record therein the opinions of the judges aforesaid, so as aforesaid directed to be given by them in writing, and which written opinions of the said judges shall be duly filed and kept together by the said clerks respectively, in their said offices, instead of being kept and filed with the records as above directed, that they may hereafter be forthcoming and subject to the further disposal of the General Assembly of this State; and for recording thereof in the books to be kept for that purpose as aforesaid, each of the clerks of the said courts shall be allowed and paid by the State the same recording fees as the clerks of the district courts are entitled to for the recording of judicial proceedings in their respective offices. That the citizens of this State shall have access to the said books as freely as to other books of record in any of the public offices of this State; that fit and proper indexes to the said books be correctly kept by the said clerks in their respective offices; that the said books be furnished to the said clerks at the expense of the State, and be continued in the said offices respectively by them, as the property of the State; and that it shall be the duty of the said clerks respectively, whenever thereunto required, to furnish exact copies therefrom or of any part thereof, to such person or persons as may have occasion to demand the same, and which clerks respectively shall be entitled to demand and receive of and from such person or persons for such transcript thereof, the same fees as the clerks of the district courts of this State are entitled to for the exemplifications of their judicial records.

III. *And be it further enacted* by the authority aforesaid, That the judges aforesaid, at their meeting and sitting for the purposes aforesaid, both at Columbia aforesaid and at Charleston aforesaid, shall respectively give their reasons in writing, either for granting or refusing new trials, on such motions for that purpose as may be submitted to them, which shall also be recorded in manner aforesaid, and be subject in every respect to the regulation aforesaid.

Acts relating to Courts.

A.D. 1811.

IV. And *whereas*, in and by an Act of the General Assembly of this State, passed on the fifteenth day of December, one thousand eight hundred and eight, entitled "An Act for the arrangement of the sitting of the Courts of Equity; for the establishment of a Court of Appeals for the same, &c." such courts of appeals have been established, to be holden at Charleston court house, and at Richland court house; and it is thereby declared to be the duty of all the judges of the court of equity, to attend at the said courts or appeal, and to hear and to try all appeals that may be brought up to the said courts respectively; but that the suitors of the said courts of equity and others, may know the grounds and reasons whereon the decisions of the said courts of appeals shall be made, *Be it further enacted* by the authority aforesaid, That the grounds and reasons on which the decisions on those appeals respectively, shall be made by the said judges, shall be given and subscribed by them in writing, and shall be recorded at Charleston by the register of the court of equity there, who shall also be register of the court of appeals so as aforesaid directed to be held at Charleston court house; and at Columbia, by the commissioner of the court of Equity for Columbia district, who shall also be register of the court of appeals so as aforesaid directed to be held at Richland court house; and who shall, respectively, keep proper books for that purpose, which shall be indexed in such a manner that the decisions therein recorded shall be properly and readily come at; which books shall be furnished at the public expense, and belong to the public as the property thereof; and the registers of the said courts of appeals, shall be entitled to fees for their services therein, which shall be regulated, as near as may be, by the fees allowed for similar services to the register and commissioner of the courts of equity.

Decisions to be
in writing, and
recorded.

V. And *whereas*, by the act of the General Assembly last aforesaid, the court of equity for Charleston district was directed to be held at Charleston court house on the third Monday in February and the first Monday in November in every year, and the court of appeals was directed to be held there on the first Monday in January and on the second Monday in March in every year; but by an Act entitled "An Act establishing a Court of Equity for the district of Beaufort, &c." passed on the nineteenth day of December, one thousand eight hundred and ten, it is enacted that the courts of equity and appeal shall be holden in Charleston at the times following, instead of the times theretofore established by law, that is to say:—the court of equity to sit on the third Monday in February, and the court of appeals on the second Monday in March; and as it is manifestly an error as to the last mentioned regulation, *Be it therefore enacted* That the said regulations, as far as respects the times of the sitting of the said courts, be hereby repealed, and that hereafter, the court of equity for Charleston district shall be held at Charleston court house aforesaid, on the third Monday in February and on the second Monday in November in every year; and that the said court of appeals shall be held there on the first Monday in January and on the second Monday in March in every year; the said law or any other laws to the contrary thereof in any wise notwithstanding.

Appeal Courts,
when to sit.

VI. And *be it further enacted* by the authority aforesaid, That an Act entitled "An Act to prescribe, on the part of this State, the times, places and manner of holding elections for Representatives in the Congress of the United States," passed in the year one thousand eight hundred and two, be, and same is hereby, repealed.

A. D. 1812.

Acts relating to Courts.

VII. *And be it further enacted* by the authority aforesaid, That from and after the conclusion of the next eastern circuit, the courts of general sessions and common pleas shall be holden at the times following, instead of the times now established by law, that is to say:—at Williamsburgh for Williamsburgh district, on the third Mondays in March and October in every year; at Horry court house for Horry disirict, on the fourth Mondays in March and October in every year; at Georgetown, on the first Monday after the fourth Mondays in March and October in every year; at Jacksonborough, for Colleton district, on the second Tuesday after the fourth Mondays in March and October in every year; at Coosawhatchee, for Beaufort district, on the third Monday after the fourth Mondays in March and October in every year; and all writs and other process of law whatsoever, which shall have been made returnable in the respective courts above mentioned, according to the heretofore existing law, shall be, to all intents and purposes whatsoever, legally returnable on the day on which the aforesaid courts are respectively authorized by this Act to sit; any law, custom or usage to the contrary thereof in any wise notwithstanding; and all persons who have been summoned to meet on any other day shall attend, and they are hereby required to attend, on the days appointed by this Act.

In the Senate House, the twenty-first day of December, in the year of our Lord one thousand eight hundred and eleven, and in the thirty-sixth year of the Independence of the United States of America.

SAMUEL WARREN, *President of the Senate.*

JOHN GEDDES, *Speaker of the House of Representatives.*

No. 2004. AN ACT TO EXTEND THE PROVISIONS OF AN ACT ENTITLED “AN ACT TO REMEDY THE DEFECTS OF THE COURT OF ORDINARY, IN THE SEVERAL DISTRICTS WHERE THERE ARE NO COUNTY COURTS, AS TO MATTERS AND CASES IN WHICH THE ORDINARIES OF THOSE DISTRICTS MAY BE RESPECTIVELY INTERESTED,” PASSED THE SEVENTH DAY OF MARCH, ONE THOUSAND SEVEN HUNDREE AND EIGHTY-NINE, TO ALL THE CIRCUIT COURT DISTRICTS THROUGHOUT THE STATE.

I. *Be it enacted*, by the honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That immediately from and after the passing of this Act, the provisions of an Act entitled “An Act to remedy the defects of the court of ordinary, in the several districts where there are no county courts, as to matters and cases in which the ordinaries of those districts may be respectively interested,” passed on the seventh day of March, one thousand seven hundred and eighty-nine, shall be, and the same are hereby, extended to each and every circuit court district throughout this State.

In the Senate House, the twenty-ninth day of August, in the year of our Lord one thousand eight hundred and twelve, and in the thirty-seventh year of the Independence of the United States of America.

SAMUEL WARREN, *President of the Senate.*

JOHN GEDDES, *Speaker of the House of Representatives.*

AN ACT FOR APPOINTING AN ADDITIONAL COMMISSIONER OR MASTER No 2029.
IN EQUITY FOR THE COURT OF EQUITY IN CHARLESTON; AND FOR
OTHER PURPOSES THEREIN MENTIONED.

WHEREAS, much inconvenience has arisen to the suitors and others in the Court of Equity of Charleston district, by reason of the great increase of business in that court, and of there being but one master of the same; and *whereas*, the business of the said court is greatly impeded thereby:

I. *Be it enacted* by the Senate and House of Representatives, now met in General Assembly, That a commissioner in equity shall be appointed, who, as well as the present master, shall exercise all the powers and authorities of, and perform all the duties incident to, the office of the said master, and be entitled to receive for his services the same fees and compensation as are allowed by law to the master of the said court; and the said commissioner in equity shall give the same security for the faithful discharge of his duty as is now required to be given by the master in equity for Charleston.

II. *And be it further enacted* by the authority aforesaid, That the judge presiding in the said court shall be, and he is hereby, authorized to apportion the business of the said court, now performed by the master, between the said master and commissioner, in such manner as shall appear to him most proper to expedite the same, and best promote the interest of the said suitors and others in the said court; *provided always*, that when the parties interested shall agree to refer their business either to the master or commissioner aforesaid, as they may choose, on application being made to the judge aforesaid, he shall be, and is hereby, required to permit them so to do, unless he should, for some substantial reason, think it expedient to refuse such permission.

III. *And be it further enacted* by the authority aforesaid, That in case of any clashing or interference between the master and commissioner in equity in the exercise of the powers and in the performance of the duties of their respective offices, the judges of the said court shall be, and they are hereby, authorized to make such rules and regulations as shall prevent the same in future, and shall be necessary to carry into effect this Act, and the purposes intended thereby.

IV. *And be it further enacted* by the authority aforesaid, That all registers and commissioners in equity who are or shall hereafter be appointed, shall respectively execute a bond, with good and sufficient securities, to the State of South Carolina, in the sum of twenty thousand dollars, for the faithful performance of the duties of their respective offices of registers and commissioners in equity, and that such bonds shall be taken in the several districts throughout this State, by the commissioners appointed to take bonds and securities from the sheriffs of the several districts of this State; which said bonds shall be transmitted and deposited as heretofore directed by law.

In the Senate House, the seventeenth day of December, in the year of our Lord one thousand eight hundred and thirteen, and in the thirty-eighth year of the Independence of the United States of America.

SAVAGE SMITH, *President of the Senate.*

JOHN GEDDES, *Speaker of the House of Representatives.*

A. D. 1817.

Acts relating to Courts.

No. 2163. AN ACT BEQUIRING SEPARATE COUNTRY DOCKETS FOR CHARLESTON DISTRICT, AND FIXING A TIME FOR THE TRIAL OF COUNTRY CAUSES IN SAID DISTRICT.

WHEREAS, great and peculiar inconveniences arise to the inhabitants of Charleston district, residing without the limits of St. Philip's and St. Michael's, who are required to attend the court of common pleas in the city of Charleston, either as parties or as witnesses, from the long terms allowed in said district, and the consequent uncertainty at what period of any term the causes in which they are concerned can be tried; by reason whereof the inhabitants of said district, residing in remote parts of the said district, are obliged to leave their homes, and await the trial of their causes, for many weeks together, to the great oppression of the said inhabitants:

I. *Be it therefore enacted*, by the honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the clerk of the court of common pleas for Charleston district shall be, and is hereby, required to make out and keep separate and distinct dockets, in which he shall register in proper form, all the causes hereafter occurring in the court of common pleas in said district, or which shall remain undecided on the dockets of said district court, at the conclusion of the term in February next, whereof either plaintiff or defendant may reside in any of the parishes composing the judicial district of Charleston, except the parishes of St. Philip's and St. Michael's; the said separate dockets to be called the country dockets of the court of common pleas for Charleston district.

II. *And be it further enacted* by the authority aforesaid, That in every term of the court of general sessions and common pleas, to be held in Charleston, for Charleston district, after the term which is required to commence on the third Monday in January next, it shall be the duty of the presiding associate judge to take up the aforesaid country dockets on the second Monday after the day which now is or hereafter may be appointed by the law for the commencement of the sessions of the said court of general sessions and common pleas, and to proceed regularly in calling the aforesaid country dockets, according to the order in which the said cases may be docketed, for the period of six successive days, unless all the cases on the said dockets shall be sooner disposed of, in which case any other business of the aforesaid district court shall be proceeded in as heretofore; *provided*, that if the business of the court of general sessions shall not have been finished before the time appointed by this Act for taking up the aforesaid country dockets, the presiding associate judge shall have power to proceed with the business of the court of sessions until all the causes depending therein shall be disposed of; and immediately thereafter, the said presiding judge shall take up the aforesaid country dockets, and proceed regularly in calling the same for six days successively, if so much time be necessary.

III. *And be it further enacted* by the authority aforesaid, That all writs of subpoena *ad testificandum*, which shall be issued in any cause required to be docketed upon the country dockets of the court of common pleas for Charleston district, shall have relation to the first day of the third week of the term, unless a later day of the term is expressed in the said writs; and that all summary processes and declarations relating to such causes, shall

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be endorsed by the attornies issuing or filing the same, for the country docket.

In the Senate House, the seventeenth day of December, in the year of our Lord one thousand eight hundred and seventeen, and in the forty-second year of the Independence of the United States of America.

JAMES R. PRINGLE, *President of the Senate.*

THOMAS BENNETT, *Speaker of the House of Representatives*

AN ACT TO AUTHORIZE THE JUDGES OF THE COURTS OF LAW OR No. 2165.
EQUITY, TO ORDER AND APPOINT, FROM TIME TO TIME, A SPECIAL COURT IN THE SEVERAL DISTRICTS OF THIS STATE; AND FOR OTHER PURPOSES THEREIN MENTIONED.

I. *Be it enacted*, by the honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That from and after the passing of this Act, it shall and may be lawful for the associate judges of the court of sessions and common pleas, and they are hereby required, whenever they may deem it necessary, to order a special court of sessions and common pleas, to be holden in any district, for the purpose of hearing and determining all such causes, rules and motions, either civil or criminal, as may be ready for trial in the said court; and the clerk of the constitutional court shall forthwith send to the clerk of the court of common pleas and sessions of the said district, a certified copy of the said order, and shall cause the same to be published in such newspaper or newspapers of the State, as the said judges may direct. And it shall be the duty of one of the said judges to hold the said court. Special court of law may be ordered.

II. *And be it further enacted* by the authority aforesaid, That whenever any clerk of the court of common pleas and sessions shall receive such notified order, it shall be his duty forthwith to issue and deliver to the sheriff of the same district, a writ of venire for the common plea and grand jurors, drawn at the next preceding court of the district, returnable to the said special court; and it shall be the duty of the sheriff of the said district to execute the said writ; and the jurors thereby summoned, shall be liable to the same penalties for non-attendance at the said special court, as for like default in the court of common pleas and sessions. Jury to be summoned.

III. *And be it further enacted* by the authority aforesaid, That the judge who shall or may hold a special court, shall cause a jury to be drawn in the manner prescribed by law, for the next ensuing court of common pleas and sessions for the same district, and to award a writ of venire for the purpose of summoning the same. And to be drawn.

IV. *And be it further enacted* by the authority aforesaid, That the judges of the appeal court in equity, be authorized, and it is hereby declared to be their duty, whenever they may deem it necessary, to order a special court of equity to be holden in any equity district, for the purpose of hearing and determining all such causes, rules and motions, as may be ready for trial in said court; and the said judges shall cause due notice to be given of the times of the meeting of such extra courts, by having the Special court of equity may be ordered.

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Acts relating to Courts.

same published in such newspaper or newspapers of the State as they may think proper.

Causes to be continued and have day.

V. *And be it further enacted* by the authority aforesaid, That all causes which may be depending, continued, or have day, in any court of common pleas and sessions or equity, of any district wherein a special court shall or may be ordered, shall be continued to and have day in the said special court; and the parties thereto shall be required to attend and prosecute or defend the same, in the same manner as they would be required to attend and prosecute or defend the same, at the court to which the said causes were originally returnable; and all witnesses who may be duly summoned or bound in recognizance to attend at any of the above mentioned courts, shall be liable, on their failure so to do, to the same penalties as for non-attendance at any of the regular sessions of said courts.

Part of a former Act repealed.

VI. *And be it further enacted* by the authority aforesaid, That so much of an Act entitled "An Act for the creation of an additional circuit, so as to prolong the terms in the districts of Charleston, Colleton and Beaufort; and for other purposes therein mentioned," passed on the 13th December, 1815, as provides for the holding of a court of sessions and common pleas at Charleston, on the second Monday after the fourth Monday in March and October, in each year, be, and the same is hereby, repealed.

Inferior city court of Charleston, when to sit.

VII. *And be further enacted* by the authority aforesaid, That the inferior city court established in the city of Charleston, shall be holden on the first Monday in every month, instead of the time now directed by law, and that all writs of *venire*, processes and recognizances, shall be returnable accordingly; and that all jurors and witnesses duly summoned to attend said court, shall be liable to attend at the time aforesaid, and on their failure so to do, they shall be subject to the same penalties as are now prescribed by law.

Part of a former Act repealed.

VIII. *Whereas*, it has been found inexpedient to elect another judge in the place of the honorable Elihu Hall Bay, who has been excused from riding the circuit and attending the constitutional court at Charleston and Columbia: *Be it therefore enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the first clause of an Act entitled "An Act for the prevention of frivolous appeals," be, and the same is hereby, repealed; and in all cases of appeal from the decisions of the circuit courts of law in this State, to the constitutional court of appeals at Charleston or Columbia, the opinion of the judge who tried the cause shall not be allowed, and have no effect in the final determination of the case.

Constitutional court to consist of not less than four judges.

IX. *And be it further enacted* by the authority aforesaid, That the constitutional courts of appeals at Charleston and Columbia, shall not consist of less than four judges, and no case shall be decided without the concurrence of three, at least, of the judges of the courts of common pleas and general sessions; and in case of an equal division of the judges upon any question of appeal, the motion of the appellant shall not be lost, but the case shall be postponed until the attendance of any judge qualified according to the terms of this Act to give an opinion, who may be absent at the trial or argument of the appeal.

Judge Bay au-

X. *And whereas*, the honorable Elihu Hall Bay has applied to the Legislature for permission to leave the State; *Be it enacted* by the authority afore-

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said, That the said Elihu Hall Bay, be, and he is hereby, authorized to leave the State for the term of nine months. thorized to leave the State.

In the Senate House, the eighteenth day of December, in the year of our Lord one thousand eight hundred and seventeen, and in the forty-second year of the Independence of the United States of America.

JAMES R. PRINGLE, *President of the Senate.*

THOMAS BENNETT, *Speaker of the House of Representatives.*

AN ACT TO ENLARGE THE JURISDICTION OF THE INFERIOR CITY COURT No. 2175.
OF CHARLESTON.

WHEREAS, from the peculiar situation and circumstances of Charleston, as a Metropolis and the great Seaport of South Carolina, the administration of justice should be prompt, and the present delays are attended with burthensome expenses on the State, in dieting prisoners confined on charges [of] misdemeanor.

I. *Be it enacted* by the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That from and after the passing of this Act, the inferior city court of Charleston shall have jurisdiction concurrent with the court of general sessions, in all cases of misdemeanor, assault and battery, arising within the city of Charleston; also in all cases of trover, detinue, replevin and trespass arising within said city, to the amount hereinafter specified. And the said inferior city court shall have jurisdiction in civil cases to the amount following:—no verdict shall be given for a greater sum than five hundred dollars, exclusive of costs, but any amount not exceeding five hundred dollars, exclusive of costs, shall be, and the same is hereby declared to be, within the jurisdiction of the said court, whether the same be damages, or the balance of mutual demands, or single cause of action; *Provided*, nothing contained in this Act shall be so construed as to extend to any inhabitant of this State, who may not be a resident within the city of Charleston; and no person shall be construed to be a resident of the said city, unless he shall have resided in the said city three months prior to the commencement of the suit or prosecution, or shall have resided within the said city four months during the year immediately preceding the commencement of said suit or prosecution.

II. *And be it further enacted* by the authority aforesaid, That the charges and fees of the several offices of said inferior city court, shall be the same as in the court of sessions and common pleas, in like cases.

III. *And be it further enacted* by the authority aforesaid, That the recorder of the city of Charleston, as judge of the said inferior city court, shall have the same powers in the discharge of his duties, as the judges of the court of sessions and common pleas in like cases, and the proceedings in criminal cases, and in civil cases over and above one hundred dollars, shall be the same substantially as in the courts of sessions and common pleas in like cases.

IV. *And be it further enacted* by the authority aforesaid, That all prisoners who shall be arrested and ordered to be committed by any sentence

A. D. 1818.

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or judgment of said inferior city court, or who shall be ordered to be committed either by the recorder of the said city, as judge of said court, or by any justice of the peace or quorum, upon any complaint, to take trial at the said court, shall and may be committed to the common goal of Charleston district, and there held until discharged by due course of law; and the keeper of the said gaol is hereby directed and required to take custody of said prisoners, and them safely keep accordingly. And all magistrates within said city shall make commitments and take recognizances accordingly; and the judges and magistrates in this State may order prisoners to said gaol to take trial in said inferior city court, in cases within its jurisdiction; and the State constables within the city of Charleston shall attend said inferior city court, and shall receive from the State the same compensation as in the courts of sessions.

V. *And be it further enacted* by the authority aforesaid, That the inferior city court of Charleston shall hereafter sit on the first Mondays in January, March, May, July, September and November of every year; and shall continue to sit two weeks, unless the business of the court shall be sooner disposed of; and hereafter no imparlance shall be allowed in any case where the amount sued for does not exceed one hundred dollars, exclusive of costs.

VI. *And be it further enacted* by the authority aforesaid, That all parties shall have the same right of appeal to the constitutional court of appeals, from the decisions of the inferior city court, in the same form which is now or may be lawful for parties in the courts of sessions and common pleas in like cases; and the judges of the constitutional court of appeals shall hear and determine such appeals in the same manner as appeals from the circuit court of Charleston district; and the judge of the said inferior city court shall report on appeal cases in the same manner as the judges of the circuit court; and the said inferior city court shall, and it is hereby authorized to, hear and decide appeals from magistrates within the city of Charleston, as the circuit court of common pleas have heretofore done; and appeal bonds shall be taken accordingly.

VII. *And be it further enacted* by the authority aforesaid, That all prosecutions on behalf of the State, shall be conducted in said inferior city court by the attorney general, or by some fit and proper person appointed by him in his absence, which deputy shall have the same power and receive the same emoluments as the attorney general if present; and penalties, fines and forfeitures to the State, shall be disposed of and applied to the city of Charleston, and paid into the treasury of said city.

VIII. *Be it further enacted* by the authority aforesaid, That the sheriff of the said inferior city court, shall provide boxes and make lists of persons to be drawn as grand jurors in the said city, in the same manner as in the court of sessions, and petit jurors shall be drawn to serve one week, unless they be actually charged with an issue, in which case they shall be adjourned from time to time, or continue to sit until said issue shall be disposed of; and the same number shall be drawn and summoned for each week as have heretofore been drawn for one week.

In the Senate House, the eighteenth day of December, in the year of our Lord one thousand eight hundred and eighteen, and in the forty-third year of the Independence of the United States of America.

JAMES R. PRINGLE, *President of the Senate.*

PATRICK NOBLE, *Speaker of the House of Representatives.*

Acts relating to Courts.

A. D. 1818.

AN ACT TO GIVE THE JUDGES OF THE COURT OF SESSIONS AND COMMON PLEAS THE SAME AUTHORITY TO GRANT WRITS AND HEAR AND DETERMINE MOTIONS, AT CHAMBERS, AS THEY NOW HAVE IN OPEN COURT; AND [FOR] OTHER PURPOSES THEREIN MENTIONED. No. 2179.

WHEREAS, great inconveniences and expense often arise from the want of authority in the judges of the court of sessions and common pleas, to grant writs of mandamus and prohibition, and to hear and determine motions, at Chambers, in many cases; for remedy whereof,

I. *Be it enacted*, by the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That from and immediately after the passing this Act, the judges of the court of general sessions and common pleas shall have power, at their Chambers, to grant writs of prohibition and mandamus, and of quo warranto, and to hear and determine motions to set aside or stay executions, in the same manner, in every respect, as if the court was actually sitting; any law, usage or custom, to the contrary in any wise notwithstanding; and the parties, respectively, shall have the same right of appeal to the constitutional court of appeals, as if the decision were made in open court.

In the Senate House, the sixteenth day of December, in the year of our Lord one thousand eight hundred and eighteen, and in the forty-third year of the Independence of the United States of America.

JAMES R. PRINGLE, *President of the Senate.*

ROBERT Y. HAYNE, *Speaker of the House of Representatives.*

AN ACT TO REPEAL SO MUCH OF THE FOURTH SECTION OF THE ACT OF 1769, AS AUTHORIZES THE GOVERNOR AND COMMANDER-IN-CHIEF, IN CERTAIN CASES, TO APPOINT AND COMMISSION PERSONS TO HOLD THE COURTS OF SESSIONS AND COMMON PLEAS. No. 2185

I. *Be it enacted*, by the honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That so much of the fourth section of the Act of the Legislature of this State, passed on the twenty-ninth of July, Anno Domini 1769, entitled "An Act to establish courts, building goals, and appointing sheriffs and other officers, for the more convenient administration of justice in this Province," as authorizes the Governor or Commander-in-chief, in certain cases, to appoint and commission persons to hold said courts, be, and the same is hereby, repealed.

In the Senate House, the sixteenth day of December, in the year of our Lord one thousand eight hundred and eighteen, and in the forty-third year of the Independence of the United States of America.

JAMES R. PRINGLE, *President of the Senate.*

ROBERT Y. HAYNE, *Speaker of the House of Representatives.*

A. D. 1820.

Acts relating to Courts.

No. 2237. AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO ENLARGE THE JURISDICTION OF THE INFERIOR CITY COURT OF CHARLESTON."

I. *Be it enacted* by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That from and after the passing of this Act, the title of the "Inferior City Court of Charleston" shall be the City Court of Charleston.

II. *And be it further enacted*, That hereafter all parties and suitors in the said city court of Charleston, shall have the same rights and privileges, in all cases within the jurisdiction of the said court, that parties and suitors have or are entitled to in cases within the jurisdiction of the superior courts of law in this State; and that the clerk and sheriff of the said city court of Charleston, shall hereafter have the same powers and authorities, in all cases within the jurisdiction of the said court, as the clerks and sheriffs of the superior courts of law in this State, now have.

III. *And be it further enacted*, That the Act entitled "An Act to authorize and require juries empannelled in Charleston district, to sit, in certain cases, beyond the term of one week, for which they are usually empannelled," passed in December, 1818, be, and the same is hereby, extended in like cases to the juries of the said city court of Charleston.

IV. *And be it further enacted*, That a defendant within the jurisdiction of the said city court of Charleston, shall hereafter be allowed to plead a discount to any action brought against him by a plaintiff not within the jurisdiction of the said court.

V. *And be it further enacted*, That any person usually resident in the city of Charleston, or who shall have resided therein four months before being summoned, shall hereafter be liable to serve as a juror in the said city court; *provided*, he be in the city at the time of being summoned, and is otherwise qualified by law.

VI. *And be it further enacted*, That the city council be, and they are hereby, authorized to grant permission to the Recorder of the said city court of Charleston, to leave the State, under the same circumstances as a similar permission is allowed by the Governor to the judges of the superior courts of this State.

VII. *And be it further enacted*, That the Terms of the said city court of Charleston be changed, and that it shall hereafter sit on the first Monday in January, April, July and October, in every year; and that it shall continue in session three weeks, if necessary.

VIII. *And be it further enacted*, That the clerk and sheriff of the said city court of Charleston, in case of the sickness or absence from the State of the Recorder, shall have power, and they are hereby authorized and required, to draw juries for the succeeding Term.

In the Senate House, the twentieth day of December, in the year of our Lord one thousand eight hundred and twenty, and in the forty-fifth year of the Independence of the United States of America.

BENJAMIN HUGER, *President of the Senate.*

PATRICK NOBLE, *Speaker of the House of Representatives.*

Acts relating to Courts.

A.D. 1821.

AN ACT RESPECTING THE MASTER AND COMMISSIONERS IN EQUITY ; No. 2250.
AND FOR OTHER PURPOSES.

I. *Be it enacted*, by the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That whenever hereafter the master or commissioner in Equity in this State, shall be appointed a receiver by the court of equity, and shall accept such appointment, he shall, before he enters upon the duties of such office, duly execute a bond to the judges of the court of equity, with two or more good and sufficient sureties, to be approved of by the court making the order, in a sum equal to twice the value of the estate and effects intrusted to him, conditioned for the faithful performance of his duty as receiver, which bond shall be kept among the records of the court of equity, and also recorded by the register, in a book kept for that purpose, in every court ; and a copy of said bond, certified by said register, shall be delivered by him, on demand, to every party in interest in said funds ; and such party or parties is and are hereby authorized to institute a suit at law on such certified copy, either in his or their own name, or in the name of the judges of the court of equity, whenever he or they shall or may be aggrieved by any act or neglect of the said receiver.

Security to be given by the master or commissioner as receiver.

II. *And be it further enacted* by the authority aforesaid, That every receiver hereafter appointed by the said court, shall be entitled to receive and retain, for his trouble as receiver, in preserving and managing all property whatsoever committed to him, and in receiving, investing and paying over all monies, bonds, notes, accounts and choses in action, and for all other duties whatsoever, as receiver, the sum of two per centum upon the amount he may receive in money, from the collection of the bonds, notes, accounts and choses in action, and one per centum on the good and valuable choses in action, uncollected by him, and the same on the real value of every other kind of property preserved and managed by him, and no more.

Receiver allowed two per cent commission.

III. *And be it further enacted* by the authority aforesaid, should any such receiver be ordered by the court to invest the funds in his hands, and the accumulation of the interest thereof, when received by him, in stock, or other funds yielding interest, as fast as received, and he should neglect to do so, that he and his sureties shall be chargeable with compound interest on all such sums, to be calculated at half yearly periods, from the time such sums were so received.

Receiver to obey the order of court.

IV. *And be it further enacted* by the authority aforesaid, That every master or commissioner in equity, or register acting as such, shall keep a book in which he shall open and keep a regular account with every individual or estate on whose account he has or shall hereafter receive any monies, bonds, notes, stock, choses in action, or other property, of any description whatsoever, by virtue of his office, or of his appointment as receiver, or of any order or decree of the court ; in which said account he shall duly enter and regularly credit to the parties interested, or the estate, as the case may be, every thing so received by him, on their account, and debit all payments on account of any charges against the said parties or estate ; and the said book shall be exhibited, on demand, to any person interested in the same, who may take copies of any account therein, and require the said master or commissioner to certify the same, whose fee for the same shall be one dollar : and at the expiration of the said officer's term of office, or his death, or resignation, or dismissal, the said book shall be deposited and kept among the records of the court of equity.

Books to be kept.

A. D. 1821.

Acts relating to Courts.

Bonds, &c.,
how to be lodg-
ed in bank.

V. *And be it further enacted* by the authority aforesaid, That whenever any master or commissioner in equity shall be ordered or decreed by the court to lodge in bank, or invest any monies in bonds, notes, stock, or in any property whatsoever, for or on behalf of any person or estate, he shall lodge, deposit or invest the same, not in his private name, but in his official name as master, or commissioner, or register, or receiver, as the case may be, in trust for the said person or estate; and shall exhibit his bank-book of such entries, when required by any of the parties interested therein.

How to pro-
ceed when re-
gisters, &c. go
out of office.

VI. *And be it further enacted* by the authority aforesaid, That on the resignation, dismissal from office, or expiration of the term of office, of any master, commissioner or register in equity, all the papers and documents appertaining to his said office, together with all the monies, bonds, notes, certificates of stock, or other property, received and held by him under the authority of the said court, shall be delivered over by him to his successor in office, within twenty days after the date of the commission of such successor; and should any master, commissioner or register in equity depart this life, his representatives shall pay and deliver over all the monies, documents and assets held by said officer in his official capacity, as aforesaid, unto his successor, within such time as any judge of the court of equity, upon application to him by such successor, may direct.

No commis-
sion to be al-
lowed on sales
not actually
made.

VII. *And be it further enacted* by the authority aforesaid, That no master or commissioner in equity shall be entitled to charge any commission or fee, whatsoever, for the sale or change of any property under order of court, or otherwise, unless he shall have actually sold the same at public auction, by the decreetal order of the court, notwithstanding he may have been ordered by the court to make titles to carry into effect any contract of sale, made between any parties whomsoever; in which latter case, he may charge a fee of five dollars for his titles, and no more, on any pretence.

Fees in cases
of guardian or
petition.

VIII. *And be it further enacted* by the authority aforesaid, That no master, commissioner or register in equity, shall receive more than ten dollars for all his duties connected with the appointment of a guardian or guardians; and the like sum, and no more, for all his duties upon any petition whatsoever, unless an actual sale of property should be made by him, in consequence thereof, when the usual commissions on sales may be charged.

Punishment for
violation or ne-
glect of duty.

IX. *And be it further enacted* by the authority aforesaid, That should any master, commissioner or register in equity violate or neglect any of the duties prescribed to him by this Act, he may be punished by the court of equity as for a contempt, and his official bond may also be sued by any party aggrieved by his said violation or neglect of duty.

In the Senate House, the twentieth day of December, in the year of our Lord one thousand eight hundred and twenty-one, and in the forty-sixth year of the Independence of the United States of America.

BENJAMIN HUGER, *President of the Senate.*

PATRICK NOBLE, *Speaker of the House of Representatives.*

Acts relating to Courts.

A. D. 1824.

AN ACT TO INCREASE THE JURISDICTION OF THE CITY COURT OF No. 2273.
CHARLESTON.

WHEREAS, the interests of Charleston require that the jurisdiction of the city court should be extended;

I. *Be it therefore enacted*, by the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the jurisdiction of the city court of Charleston be, and the same is hereby, extended to one thousand dollars, instead of five hundred dollars, as heretofore.

In the Senate House, the twentieth day of December, in the year of our Lord one thousand eight hundred and twenty-one, and in the forty-sixth year of the Independence of the United States of America.

BENJAMIN HUGER, *President of the Senate.*

PATRICK NOBLE, *Speaker of the House of Representatives.*

AN ACT TO REVISE AND AMEND THE JUDICIARY SYSTEM OF THIS STATE. No. 2331.

I. *Be it enacted* by the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That a court of appeals, for the courts of law and equity, shall be, and the same is hereby, established; which said court shall consist of three judges, to be chosen from the present judges of law or equity, by joint ballot of both branches of the Legislature; shall sit twice in every year at Columbia, and twice in Charleston, at such periods as they may themselves fix therefor, except that the said court never sit in Columbia whilst the circuit courts are in session, from which the appeals would go to Columbia, nor in Charleston whilst the circuit courts are in session, from which the appeals would go to Charleston; and shall exercise appellate jurisdiction in all cases brought up from the circuit courts, both of law and equity, in the same manner, and with the same powers and authority in all respects whatsoever, as are now exercised by law by the constitutional court and the court of appeals, or by either of them separately.

Court of Appeals established.

II. *And be it further enacted* by the authority aforesaid, That if at any time one or more of the said judges of the court of appeals hereby constituted, should be absent, sick, dead, or disabled to attend said court, it shall be the duty of the other judges to notify the eldest circuit law judge thereof, and the next eldest, should it be necessary, excepting any judge who may by law be excused from the performing circuit duty, who shall thereupon immediately take the place of the absent appeal judge or judges, until he or they shall return to their duties, or a successor be chosen by the Legislature; and the decision of a majority of said court shall be conclusive; *Provided, however*, that when a circuit judge is called in as aforesaid, he shall not try an appeal from his own decisions on circuit.

In case of the absence of a judge, his place to be supplied.

III. *And be it further enacted*, That if any person wishes to appeal from any order or decree of a chancellor, or from any judgment or determination of a judge of a court of law, or to make any motion in arrest of judgment, or for a new trial, he shall pursue the same course, in every respect,

Appeals, how to be made.

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that is now prescribed by law in cases of appeal; and the chancellor or circuit judge shall transmit to the court of appeals a correct report in writing, of the pleadings, the evidence, the points, and the substance of the charge to the jury, if any be made, so that the whole case, or as much as may be necessary, should be made manifest to the said court of appeals.

Rules and regulations to be made by the court. *IV. And be it further enacted,* That it shall be the duty of the said court of appeals to make all such further and other rules and regulations as may be necessary to carry this Act, and all parts of all former Acts hereby retained, applicable to the appeal courts heretofore existing, into effect.

Special courts to be ordered. *V. And be it further enacted,* That the said court of appeals may order special district courts, at their discretion, either of law or equity, for the further dispatch of the business in the district courts; and that the appeals from each district court, either of law or equity, shall be to the court of appeals in Columbia or Charleston, as at present arranged in that respect.

Two Chancellors to be chosen. *VI. And be it further enacted,* That from and among the residue of the judges of law or equity, now in commission, two persons shall be chosen in manner aforesaid, who shall be, and they are hereby declared to be, vested with all the powers, authority and jurisdiction, with which the judges of the court of equity are now invested by law, with the exception only of those powers appertaining to the court of appeals; which said two persons, so chosen, shall be denominated chancellors.

One regular court of equity to be held annually. *VII. And be it further enacted,* That there shall be held one regular court of equity once in each year, in each and every district of this State in which courts of equity are by this Act directed to be held, except in Charleston, where there shall be two courts held every year; and the said chancellors shall ride the equity courts alternately, (unless prevented by inevitable accident,) and hold the said courts, and try all equity causes therein.

Courts of law to be held as they now are. *VIII. And be it further enacted,* That the courts of law in each and every district of this State, shall continue to be held as they now are; and that the remaining judges of the courts of law or equity now in commission, shall be, and they are hereby, invested with the same powers, authority and jurisdiction, to all intents and purposes, (except those appertaining to the constitutional court,) as the present judges of the courts of law now have; and they shall ride the law circuits in rotation, unless prevented by inevitable accident, and hold the said courts, and try all civil and criminal cases therein, as the judges of the court of law now do; and that if, at any time, one or more of the circuit judges or chancellors should be absent, sick, dead, disabled, or in any way prevented from attending any circuit court, it shall be the duty of one or more of the judges of the appeal court to take the place of the said circuit judge or judges, or chancellor or chancellors, and do his duties; and the judges of the court of appeals shall form a roster for this purpose.

The State to be divided into four circuits. The first circuit. *IX. And be it further enacted* by the authority aforesaid, That the State shall be divided into four equity circuits, to be composed of the following district courts, and to be held at the following periods, namely:—the first circuit, to consist of the courts of Edgefield, Abbeville, Pendleton, Greenville, Laurens and Newberry; and the courts to be held, for Edgefield, on the third Monday in May, for six days, if so much be necessary; for Abbeville, on the fourth Monday in May, for six days, should so much be necessary; for Pendleton, on the first Monday after the fourth

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Monday in May, for six days, should so much be necessary; for Greenville, on the second Monday after the fourth Monday in May, for two days, should so much be necessary; for Laurens, on the Thursday after the second Monday after the fourth Monday in May, for three days, should so much be necessary; and for Newberry, on the third Monday after the fourth Monday in May, for six days, should so much be necessary. The second circuit to consist of the courts of Spartanburgh, Union, York, Chester, Lancaster, Fairfield and Kershaw; and the courts to be held, for Spartanburgh, on the fourth Monday in May, for two days, should so much be necessary; for Union, on the Thursday after the fourth Monday in May, for three days, should so much be necessary; for York, on the first Monday after the fourth Monday in May, for three days, should so much be necessary; for Chester, on the Thursday after the first Monday after the fourth Monday in May, for three days, should so much be necessary; for Lancaster, on the second Monday after the fourth Monday in May, for two days, should so much be necessary; for Kershaw, on the Thursday after the second Monday after the fourth Monday in May, for three days, should so much be necessary; and for Fairfield, on the third Monday after the fourth Monday in May, for six days, should so much be necessary. The third circuit, to consist of the districts of Orangeburgh, Colleton, Beaufort, Barnwell, Richland and Lexington, and to sit as follows, unless the business be sooner disposed of, viz:—for Orangeburgh, on the second Monday in January, six days; Colleton, at Walterborough, on the third Monday in January, six days; Beaufort, at Coosawhatchee, on the fourth Monday in January, six days; Barnwell, on the first Monday after the fourth Monday in January, six days; Columbia, on the second Monday after the fourth Monday in January, six days; Lexington, on the third Monday after the fourth Monday in January, three days. The fourth circuit, to consist of the courts of Charleston, Georgetown, Cheraw and Sumter; and the courts to be held, for Charleston, on the first Monday in January, to sit for four weeks, should so much be necessary, and on the fourth Monday in April, to sit four weeks, should so much be necessary; for Georgetown, at Georgetown, for the districts of Williamsburgh, Horry, Marion and Georgetown, on the first Monday after the fourth Monday in January, to sit two weeks, should so much be necessary; for Cheraw, at Darlington court house, for the districts of Chesterfield, Marlborough and Darlington, on the third Monday after the fourth Monday in January, for six days, should so much be necessary; and for Sumter, on the fourth Monday after the fourth Monday in January, for six days, should so much be necessary.

X. *And be it further enacted*, That the master and the commissioners of every equity district in the State, shall annually, at the sitting of their respective courts, severally make report to the court of the different estates in their hands severally, under and by virtue of any decree or order of the court, with a full and particular account of the monies received and paid, relating to the said estates; and the said master and commissioners shall also, at the time above mentioned, severally report what guardians or trustees have not annually made returns of all monies received and expended, and which of them have so made their returns; and it shall be the duty of every trustee or guardian appointed by the court, to make an annual return of the estate in his possession, setting out all the items of money received and paid out, with the proper vouchers; and it shall be the duty of the master and commissioners to set apart certain days for a reference of such accounts, to give

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notice thereof to all guardians and trustees, whose duty it shall be to account before them; and likewise to make such observations on all such accounts, in his annual report to the court, as may be necessary, and conducive [to] justice; and in case he should neglect to make such annual reports of all such guardians and trustees, he shall be responsible for all losses by the minor and *cestuique* trust in consequence of his guardian or trustee neglecting to account annually; besides subject to be fined at the discretion of the court, on a rule to shew cause being first served on him.

Chancellor to call upon the commissioner to make his returns.

XI. *And be it further enacted*, That it shall be the duty of the chancellor, on the first day of every court, to call upon the commissioner to make his returns, and should the commissioner or any guardian or trustee neglect to make such their annual returns, the chancellor shall, during the court and before it rises, make such order as shall be necessary to carry into strict operation this Act, and as shall be necessary to protect the interest of those whose estates are in the possession of trustees or guardians; and should any chancellor neglect so to call upon all commissioners and master for reports, he shall be responsible, after the commissioner has been sued to insolvency, or removed without the State, for all losses sustained by any one in consequence of such neglect of duty.

Master and Commissioners to make report of guardians & trustees who have not made returns.

XII. *And be it further enacted*, That the master and commissioners in equity, shall, at the next sitting of the court of chancery, in each and every of their respective courts, make report to the presiding judge, on the first day of the court, of all guardians and trustees appointed by any such court, who have not made regular returns of monies received and expended, since their appointment; and it shall be the duty of such presiding judge to order proceedings immediately to be taken before the commissioner, for compelling such guardian or trustee to render a full account before the next sitting of such court, and to make such further and other order as may be necessary to justice, and to a correct and honest administration of the estates of minors and *cestuique* trusts; to discharge such guardian or trustee, and appoint others, or to make such order as to him may seem meet; saving and reserving, in all cases, a right of appeal to the appeal court.

Costs in cases under \$2000.

XIII. *Be it enacted*, That from and after the passing of this Act, the costs of every suit in equity, brought by petition or bill, for the partition of an estate under the value of two thousand dollars, shall be no more than one half of the sums heretofore allowed by law.

Courts of appeals, where to be held.

XIV. *And be it further enacted* by the authority aforesaid, That appeals from the districts of Beaufort, Colleton, Charleston, Georgetown, Williamsburg and Horry, shall be taken to the court of appeals at Charleston; and that appeals from all the other districts shall be taken to the court of appeals at Columbia.

Repealing clause.

XV. *And be it further enacted*, That all Acts and parts of Acts repugnant hereto, are hereby repealed.

In the Senate House, the seventeenth day of December, in the year of our Lord one thousand eight hundred and twentyfour, and in the forty-ninth year of the Independence of the United States of America.

JACOB BOND I'ON, *President of the Senate.*

JNO. B. O'NEALL, *Speaker of the House of Representatives.*

Acts relating to Courts.

A. D. 1825.

AN ACT TO GIVE TO THE CITY COURT OF CHARLESTON CONCURRENT JURISDICTION WITH THE COURT OF COMMON PLEAS, IN SUITS ON CERTAIN MERCANTILE CONTRACTS, TO ANY AMOUNT. No. 2362.

I. *Be it enacted* by the Senate and House of Representatives, and by the authority of the same, That the city court of Charleston shall be, and it is hereby, authorized to entertain jurisdiction in all suits arising upon policies of assurance, charter parties, and other contracts concerning freight, either express or implied, bills of lading, or other contracts, express or implied, concerning the delivery of goods, wares and merchandize brought into the State, in ships or vessels from a sister State, or from foreign parts, to the same extent, to all intents and purposes, as the court of common pleas, where the contract or cause of action arises within the limits of the corporation, and where the defendant is a resident within the limits of the said corporation, or is not a resident of this State; any law of this State, to the contrary thereof, notwithstanding.

In the Senate House, the nineteenth day of December, in the year of our Lord one thousand eight hundred and twenty-five, and in the fiftieth year of the Independence of the United States of America.

JACOB BOND I'ON, *President of the Senate.*

JOHN B. O'NEALL, *Speaker of the House of Representatives.*

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO REVISE AND AMEND THE JUDICIARY SYSTEM OF THIS STATE; AND FOR OTHER PURPOSES." No. 2369.

I. *Be it enacted*, by the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority aforesaid, That the circuit judge who holds any court, shall, in case he is unable to dispatch the business of any court, be, and he is hereby, authorized and required to appoint an extra court, and shall return and hold said extra court, unless prevented by sickness or other cause, in which case, any other circuit judge most convenient shall attend and hold said extra court; and it shall be the duty of the said circuit judge of the court of common law, ordering the extra court, to order juries to be drawn for said extra court, as well as for the next regular circuit court. Judges to appoint extra courts of common pleas.

II. *Be it further enacted*, That in case the business of the circuit court of equity shall so accumulate as to require extra courts, the chancellor, who is unable to dispose of the business at the regular court, shall and may direct any extra court to be held at such time as will interfere least with the other courts, and one of the chancellors, or if neither of them is able to attend, one of the appeal judges, shall hold said extra court. And extra courts of equity.

III. *And be it further enacted*, That the chancellors, or either of them, shall be, and they are hereby, vested with power and authority, in case of sickness, absence, or inability from any other cause, of a commissioner and register of the court of equity, to discharge his duties at the time appointed for holding any court of equity, to appoint a register of said court, to Chancellors may appoint registers.

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serve during the sitting of said court, who shall perform the same duties, and whose fees and compensation shall be the same, as the register would have been, had he been personally present to discharge said duties.

Clerks to
draw juries.

IV. *And be it further enacted*, That the clerk of the district in which such extra court is ordered, shall have power to draw a jury for that court, as in cases where a judge has failed to attend a circuit court.

Circuit judges
may attend the
court of ap-
peals.

V. *And be it further enacted* by the authority aforesaid, That if, at any time, one or more of the judges of the court of appeals should be absent, from any sufficient cause, the other judge or judges of that court shall notify one or more of the circuit judges of the same; and it shall be the duty of such judge or judges to attend in the place of the judge or judges so absent, as foresaid.

Court of ap-
peals, when to
sit.

VI. *And be it further enacted* by the authority aforesaid, That the appeal court shall sit at such times as may be necessary for the despatch of business, but shall so arrange the calling of the appeal docket, as not to interfere with the holding of the circuit court.

Writs and pro-
cesses to be
tested by the
clerks of
courts.

VII. *And be it further enacted* by the authority aforesaid, That all writs and processes, issued after the first day of April next, from the courts of sessions and common pleas, shall be tested on any day previous to the day on which they are made returnable, in the name of any of the clerks of the court of sessions and common pleas, who signs them.

Court of equity
in Georgetown,
when to sit.

VIII. *And be it further enacted* by the authority aforesaid, That the court of equity for the equity district of Georgetown, shall hereafter sit on the first Monday after the fourth Monday in January, to continue one week, if so much be necessary, and on the third Monday in April, to continue one week, if so much be necessary, in each and every year, instead of the time now required by law.

Papers to be
transferred
from Richland
to Lexington.

IX. *Be it further enacted*, That the commissioner in equity for Richland district, be, and he is hereby, authorized and required to deliver to the commissioner in equity for Lexington district, all papers and other documents which are in his office, pertaining to any cause of action which may have originated in said district, where the defendant or defendants reside in Lexington district, upon his application for the same.

Masters or
commissioners
to grant in-
junctions.

X. *Be it further enacted*, That the masters or commissioners in equity may grant injunctions, which shall continue of force until the answer is filed, in the same manner as the chancellors are now authorized to do; and upon filing the answer, an application may be made to the chancellor, who shall make such order upon the bill and answer, as the case may require, either at chambers or in open court.

Courts of equi-
ty for Edge-
field, &c., when
to be held.

XI. *And be it further enacted* by the authority aforesaid, That the court of equity for Edgefield district shall hereafter be held on the fourth Monday in May, for twelve days, should so much be necessary; for Abbeville district, on the second Monday after the fourth Monday in May, for six days, should so much be necessary; for Pendleton district, on the third Monday after the fourth Monday in May, for six days, should so much be necessary; for Greenville, on the fourth Monday after the fourth Monday in May, for two days, should so much be necessary; for Laurens, on the Thursday after the fourth Monday after the fourth Monday in May, for three days, should so much be necessary; and for Newberry, on the first Monday after the fourth Monday after the fourth Monday in May, for six days, should so much be necessary.

XII. *Whereas*, doubts may arise as to the proper construction of the third section of an Act passed in December, Anno Domini one thousand

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eight hundred and twenty-four, entitled "An Act for the amendment of the law in divers particulars therein mentioned," in relation to the time when interest shall commence: *be it enacted* by the authority aforesaid, That the said clause, in said Act, shall be construed to allow interest on the value of the land, in assessing dower, from the accrual of the right of dower, and not from the time of alienation. Act of 1824 explained.

In the Senate House, the nineteenth day of December, in the year of our Lord one thousand eight hundred and twenty-five, and in the fiftieth year of the Independence of the United States of America.

JACOB BOND TON, *President of the Senate.*

JOHN B. O'NEALL, *Speaker of the House of Representatives.*

AN ACT TO REGULATE THE SITTINGS OF THE COURT OF APPEALS; AND No. 2432.
FOR OTHER PURPOSES.

I. *Be it enacted*, by the honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the court of appeals shall meet at Charleston on the first Monday in February, in each and every year, to hear and determine all cases of appeals in law or in equity, from Charleston, from the eastern circuit, and from Beaufort and Colleton districts, and shall continue its session for a term not exceeding three months; and in case the causes on the dockets should not be disposed of during that term, the said court shall meet at Columbia on the first Monday in November, and hear and determine the remaining causes on the said docket from Charleston district, until the first Monday in December, in each and every year; and it shall be lawful for the court, at its session in Columbia in November, to hear and decide all cases which may have been decided in the circuit courts of Charleston, from the eastern and south-eastern circuits, during the vacation of the appeal court, and which may be docketed for trial at Columbia, by consent of counsel endorsed upon the notice of appeal. Court of appeals, where to meet.

II. *And be it further enacted* by the authority aforesaid, That the judges of the court of appeals shall, from and after the passing of this Act, have the power and authority to appoint a clerk for the court of appeals at Columbia, who shall attend the sittings of the said court, and discharge all the duties now discharged by the clerk of the court and commissioner in equity for Richland district; which clerk so to be appointed shall be removable at the pleasure of the court of appeals, and during his continuance in office, shall receive an annual salary of three hundred dollars, in lieu of all other charges against the State, as well for attendance in office as for copying papers for the State reporter. Judges to appoint a clerk for Columbia.

III. *And be it further enacted* by the authority aforesaid, That the judges of the court of appeals shall, from and after the passing of this Act, have the power and authority to appoint a clerk for the court of appeals at Charleston, who shall attend the sittings of the said court, and discharge all the duties now discharged by the clerk of the court and register in equity for Charleston district; which clerk so to be appointed shall be removable at the pleasure of the court of appeals, and during his continuance in office And one for Charleston.

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shall receive an annual salary of three hundred dollars, in lieu of all other charges against the State, as well for attendance as for copying papers for the State reporter.

Offices of the
said clerks,
where to be
held.

IV. *And be it further enacted* by the authority aforesaid, That the consultation room of the court of appeals at Columbia shall be the office of the clerk of the court of appeals in Columbia, and that a room in the fire proof offices in Charleston be assigned to the clerk of the court of appeals in Charleston, by the commissioners of public buildings.

Records, &c,
to be delivered
to said clerks.

V. *And be it further enacted* by the authority aforesaid, That the clerks of the Courts for Richland and Charleston districts, and the commissioner in equity for Richland, and the Register in equity for Charleston district, shall, upon the appointment of a clerk of the court of appeals for their respective districts, transfer and deliver to the said clerk all the records, books and papers concerning or belonging to the said court.

Certificates to
be given with-
out charge.

VI. *And be it further enacted*, That the said clerks of the court of appeals shall not hereafter be allowed to make any charge for a certificate of the result of a case on the appeal docket, but they shall be compelled to certify the same without charge, and transmit such certificate to the clerk of the circuit court from which the appeal comes, as soon as the case is determined. For copying the opinions or other papers of the said court, they shall be allowed the usual charge per copy sheet.

Messengers to
be appointed.

VII. *And be it further enacted* by the authority aforesaid, That the said judges of the court of appeals shall have power and authority to appoint a messenger for the court in Charleston, and a messenger for the court in Columbia, who shall discharge such duties, and execute all such orders, as may be assigned him by said court; which messengers shall be removable at the pleasure of the said judges, and during their continuance in office shall each receive an annual salary of one hundred and fifty dollars, in lieu of all charges against the State.

In the Senate House, the nineteenth day of December, in the year of our Lord one thousand eight hundred and twenty-seven, and in the fifty-second year of the Independence of the United States of America.


JACOB BOND I'ON, *President of the Senate.*

JOHN B. O'NEALL, *Speaker of the House of Representatives.*

No. 2579. AN ACT REGULATING THE PRACTICE OF THE COURT OF APPEALS.

I. *Be it enacted*, by the honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That where an appeal shall hereafter be taken in any case tried before one of the judges of the court of appeals, sitting as a circuit judge or chancellor, such judge shall not sit upon the trial of said appeal, and one of the circuit judges or chancellors shall be called in by the court, in the room of said judge of the court of appeals.

II. *And be it further enacted* by the authority aforesaid, That where an appeal shall hereafter be taken from a conviction for a misdemeanor, the sentence which would have been passed shall be reduced to writing, and signed by the judge before whom the case may have been tried, sealed up,

*Acts relating to Courts.*A. D. 1833.


and lodged with the clerk of the court for the district in which the case originated, to the end that such sentence may be passed on the defendant, at the next circuit court for said district, after the appeal shall have been dismissed by the court of appeals; and the defendant shall not hereafter, in any such case, be required to appear in person before the court of appeals.

III. *And be it further enacted*, That hereafter, no circuit judge or chancellor shall sit in the court of appeals on any case he may have tried on the circuit.

In the Senate House, the twentieth day of December, in the year of our Lord one thousand eight hundred and thirty-two, and the fifty-seventh year of the Sovereignty and Independence of the United States of America.

H. DEAS, *President of the Senate.*

H. L. PINCKNEY, *Speaker of the House of Representatives.*

AN ACT TO PROLONG THE TERMS OF THE COURT OF EQUITY, FOR No 2598.
CERTAIN DISTRICTS.

I. *Be it enacted* by the Senate and House of Representatives of the State of South Carolina, met and sitting in General Assembly, and by the authority of the same, That the chancellors shall henceforth, in each and every year, hold the courts of equity in the upper country, at the following times, instead of those now fixed by law.

II. Those for Edgefield and Spartanburgh districts, to commence on the second Monday in June, and continue in session six days, unless the business be sooner disposed of.

III. Those for Abbeville and Union districts, to commence the third Monday in June, and continue in session six days, unless the business be sooner disposed of.

IV. That for Anderson district, to commence on the fourth Monday in June, and continue in session three days, unless the business be sooner disposed of; and that for Pickens district, to commence on the Friday after the fourth Monday in June, and continue in session two days, unless the business be sooner disposed of.

V. That for York district, to commence on the fourth Monday in June, and continue in session six days, unless the business be sooner disposed of.

VI. Those for Greenville and Chester districts, to commence the first Monday after the fourth Monday in June, and continue in session six days, unless the business be sooner disposed of.

VII. Those for Laurens and Fairfield districts, to commence the second Monday after the fourth Monday in June, and continue in session six days, unless the business be sooner disposed of.

VIII. Those for Newberry and Lancaster districts, to commence the third Monday after the fourth Monday in June, and sit from day to day, Sundays excepted, until the business be disposed of.

IX. *And be it enacted*, That Kershaw Equity district be annexed to the fourth equity circuit; and that the equity terms of that circuit be held henceforth, in each and every year, at the following times, instead of those now fixed by law.

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X. The court of equity for Charleston district, to commence the first Monday in January, and remain in session for three weeks, Sundays excepted, unless the business be sooner disposed of.

XI. That for Georgetown district, to commence the Tuesday after the fourth Monday in January, and continue in session five days, unless the business be sooner disposed of.

XII. That for Williamsburgh district, to commence the first Monday after the fourth Monday in January, and remain in session two days, unless the business be sooner disposed of.

XIII. That for Marion district, to commence the Thursday after the first Monday after the fourth Monday in January, and continue in session three days, unless the business be sooner disposed of.

XIV. That for Cheraw equity district, to commence at Darlington court house, the second Monday after the fourth Monday in January, and remain six days in session, unless the business be sooner disposed of.

XV. That for Sumter district, to commence the third Monday after the fourth Monday in January, and continue in session six days, unless the business be sooner disposed of.

XVI. That for Kershaw district, to commence the fourth Monday after the fourth Monday in January, and sit from day to day, Sundays excepted, until the business be disposed of.

XVII. *And be it enacted*, That the Spring courts of equity for the districts of Georgetown and Charleston, continue to be held as heretofore; any thing in this Act to the contrary notwithstanding.

XVIII. If hereafter, any decree shall be delivered in Equity, or any trial be had in the court of general sessions or common pleas, during the sitting of the court of appeals in Charleston, in any district from which the appeals are directed to be carried to Charleston for a hearing; or during the sitting of the said Court in Columbia, in any district from which appeals are directed to be carried to Columbia for a hearing; and an appeal shall be taken therefrom, either party, upon the receiving the decree, if in equity, or the report of the judge, if a trial in the sessions or common pleas, and giving the opposite party or counsel four days notice of such intention, may proceed to docket the said cause for a hearing at Charleston or Columbia, as the case may be; and the court of appeals shall call, hear and dispose of said cause, in the same manner as other appeals are.

In the Senate House, the nineteenth day of December, in the year of our Lord one thousand eight hundred and thirty-three, and in the fifty-eighth year of the Sovereignty and Independence of the United States of America.

H. DEAS, *President of the Senate.*

PATRICK NOBLE, *Speaker of the House of Representatives.*

No. 2646. AN ACT TO REFORM AND AMEND THE JUDICIARY SYSTEM OF THIS STATE.

Repeal of former Act.

I. *Be it enacted*, by the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the first section of an Act entitled "An Act to revise and amend the judiciary system of this State," passed the seventeenth day of December, in

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A. D. 1835.

the year of our Lord one thousand eight hundred and twenty-four, establishing a court of appeals, be, and the same is hereby, repealed.

II. That from among the judges of the court of appeals, as heretofore constituted, two shall be designated, by ballot of both branches of the Legislature, who shall hereafter perform the duties of chancellors, and the remaining judge shall perform the duties of a judge of the courts of law.

Disposal of the
Appeal judges.

III. That the law judges and chancellors shall meet and sit at the times and places hereinafter specified, for the purpose of holding the court of appeals in hearing and determining all motions which may be made for new trials and in arrest of judgment, and such points of law and equity as may be submitted to them, with the same powers now exercised by the court of appeals; *Provided*, that not less than a majority of the law judges and a majority of the chancellors shall hold said court; and *Provided also*, that no chancellor or law judge by or before whom a cause may be heard or tried, shall exercise appellate jurisdiction thereupon in said court.

Duty of law
judges and
chancellors.

IV. That the several courts of common pleas and sessions in the State, shall be, and they are hereby, arranged into six circuits, in the following manner, that is to say:—the several courts for the districts of Richland, Orangeburgh, Barnwell, Beaufort and Colleton, shall form the southern circuit; the several courts for the districts of Abbeville, Edgefield, Newberry and Lexington, shall form the south-western circuit; the several courts for the districts of Pickens, Anderson, Greenville, Spartanburgh and Laurens, shall form the western circuit; the several courts for the districts of Union, York, Chester, Lancaster and Fairfield, shall form the middle circuit; the several courts for the districts of Chesterfield, Kershaw, Sumter, Darlington and Marlborough, shall form the northern circuit; and the several courts for the districts of Charleston, Williamsburgh, Marion, Horry and Georgetown, shall form the eastern circuit.

Courts of com
mon pleas ar
ranged into
circuits.

V. That the several courts of common pleas and sessions shall hereafter be held at the following periods, that is to say:—at Columbia, for Richland district; at Abbeville court house, for Abbeville district; at Pickens court house, for Pickens district; at Union court house, for Union district; and at Chesterfield court house, for Chesterfield district; on the first Monday in October, and the second Monday in March, in every year; at Orangeburgh court house, for Orangeburgh district; at Anderson court house, for Anderson district; at York court house, for York district; and at Camden, for Kershaw district, on the the second Monday in October, and the third Monday in March, in every year; at Barnwell court house, for Barnwell district; at Greenville court house, for Greenville district; at Chester court house, for Chester district; and at Sumter court house, for Sumter district; on the third Monday in October, and the fourth Monday in March, in every year; at Walterborough, for Colleton district; at Newberry court house, for Newberry district; at Spartanburgh court house, for Spartanburgh district; at Lancaster court house, for Lancaster district; and at Darlington court house, for Darlington district; on the fourth Monday in October, and the first Monday after the fourth Monday in March, in every year; at Coosawhatchee, for Beaufort district; at Lexington court house, for Lexington district; at Laurens court house, for Laurens district; at Winnsborough, for Fairfield district; and at Marlborough court house, for Marlborough district; on the first Monday after the fourth Monday in October, and the second Monday after the fourth Monday in March, in every year; at Williamsburgh court house, for Williamsburgh district,

Periods when
to be held.

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on the fourth Mondays in March and October; at Conwayborough, for Horry district, on the first Monday after the fourth Monday in March and October; at Georgetown, for Georgetown district, on the second Monday after the fourth Monday in March and October; at Marion court house, for Marion district, on the third Monday after the fourth Monday in March and October, in every year, for one week at each term, unless the business of said courts, respectively, shall be sooner dispatched; at Edgefield court house, for Edgefield district, on the second Monday in January, and the third Monday in March, in every year, for two weeks at each term; and at Charleston, for Charleston district, on the fourth Monday in January, for three weeks, and on the second Monday in May, for six weeks, and on the first Monday in October, for two weeks, in every year, unless the business thereof shall be sooner dispatched.

Courts of equity, when to be held.

VI. That the several courts of equity in the State shall hereafter be holden twice annually, at the following periods, that is to say:—at Edgefield court house, for Edgefield district; and at Spartanburgh court house, for Spartanburgh district, on the fourth Monday in January, and the first Monday in June; at Columbia, for Richland district, on the fourth Monday in January, and the second Monday after the fourth Monday in June, in every year, for one week at each term, unless the business of said courts, respectively, shall be sooner dispatched. At Abbeville court house, for Abbeville district; and at Union court house, for Union district, on the first Monday after the fourth Monday in January, and the second Monday in June; and at Lexington court house, for Lexington district, on the first Monday after the fourth Monday in January, and the first Monday after the fourth Monday in June, in every year, for one week at each term, unless the business of said courts, respectively, shall be sooner dispatched. At Georgetown, for Georgetown district, on the first Monday after the fourth Monday in January, and the fourth Monday in April, in every year, for one week at each term, unless the business thereof shall be sooner dispatched. At York court house, for York district, on the second Monday after the fourth Monday in January, and the third Monday in June; at Orangeburgh court house, for Orangeburgh district, on the second Monday after the fourth Monday in January, and the fourth Monday in June, in every year, for one week at each term, unless the business of said courts, respectively, shall be sooner dispatched. At Anderson court house, for Anderson district; and at Williamsburgh court house, for Williamsburgh district, on the second Monday after the fourth Monday in January, and the third Monday in June, in every year, for two days at each term. At Pickens court house, for Pickens district; and at Marion court house, for Marion district, on the Thursday next after the second Monday after the fourth Monday in January, and the Thursday next after the third Monday in June, in every year, for three days at each term, unless the business of said courts shall, respectively, be sooner dispatched. At Greenville court house, for Greenville district; at Chester court house, for Chester district; and at Darlington court house, for Cheraw district, on the third Monday after the fourth Monday in January, and on the fourth Monday in June; and at Barnwell court house, for Barnwell district, on the third Monday after the fourth Monday in January, and the third Monday in June, in every year, for one week at each term, unless the business of said courts, respectively, shall be sooner dispatched. At Laurens court house, for Laurens district; at Winnsborough, for Fairfield district; and at Sumter court house, for Sumter district, on the fourth Monday after the fourth Monday

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in January, and the first Monday after the fourth Monday in June; and at Walterborough, for Colleton district, on the fourth Monday after the fourth Monday in January, and the second Monday in June, in every year, for one week at each term, unless the business of said courts, respectively, shall be sooner dispatched. At Newberry court house, for Newberry district; at Lancaster court house, for Lancaster district; and at Camden, for Kershaw district, on the fifth Monday after the fourth Monday in January, and the second Monday after the fourth Monday in June. At Coosawhatchee, for Beaufort district, on the fifth Monday after the fourth Monday in January, and the first Monday in June, in every year, for one week at each term, unless the business of said courts, respectively, shall be sooner dispatched; and at Charleston, for Charleston district, on the first Monday in January, for three weeks, and the first Monday after the fourth Monday in April, for five weeks, in every year, unless the business thereof shall be sooner dispatched.

VII. That the law judges and chancellors shall meet to hold the court of appeals at Columbia, for all cases directed by law to be taken there, on the fourth Monday in November, for four weeks, unless the business thereof shall be sooner dispatched; and on the third Monday in July, for as many weeks as may be necessary to dispatch the business thereof, in every year; and at Charleston, for all the cases directed by law to be taken there, on the first Monday in January, for four weeks, and on the fourth Monday in April, for four weeks, in every year, unless the business thereof shall be sooner dispatched.

When courts of
appeals shall
be held.

VIII. That the chancellors and law judges hereafter to be elected, shall receive, each, an annual salary of three thousand dollars.

Chancellors'
and law
judges' salary.

IX. That all writs and processes which shall have been made returnable to the aforesaid courts respectively, according to the laws heretofore in force, shall be legal and valid to all intents and purposes; and the persons bound thereby, shall attend on the days prescribed by this Act for the sitting of the aforesaid courts respectively.

Previous writs,
legal.

X. That all jurors and witnesses already summoned, or who shall hereafter be summoned, to attend the said courts respectively, according to the laws heretofore in force, shall be required to attend at the times herein fixed for the sitting of the said courts respectively; and that all persons now bound, or who shall hereafter be bound, in recognizance to appear at the said courts respectively, according to the laws heretofore in force, shall be required to appear at the times herein fixed for the sitting of the said courts respectively.

Jurors and
witnesses
bound to at-
tend.

XI. That the solicitors of the Southern, Northern, Eastern, Middle and Western circuits, who are now in office, or may hereafter be elected, shall be assigned to those several circuits respectively, and that a solicitor shall be appointed by the Legislature for the south-western circuit, hereby established, who shall attend the courts assigned to the same, perform the several duties, be entitled to the same privileges, and receive the same salary and perquisites, as by law allowed to the other solicitors.

Solicitors as-
signed to cir-
cuits.

XII. That all Acts and parts of Acts repugnant hereto, are hereby repealed.

Repugnant
Acts repealed.

In the Senate House, the eighteenth day of December, in the year of our Lord one thousand eight hundred and thirty-five, and in the sixtieth year of the Sovereignty and Independence of the United States of America.

H. DEAS, *President of the Senate.*

PATRICK NOBLE, *Speaker of the House of Representatives.*

A. D. 1836.

Acts relating to Courts.

No. 2677. AN ACT TO INCREASE THE JURISDICTION OF THE CITY COURT OF CHARLESTON; AND FOR OTHER PURPOSES.

Jurisdiction of city court. I. *Be it enacted* by the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That from and after the passing of this Act, the city court of Charleston shall, in addition to the powers and jurisdiction now vested in or possessed by it, have concurrent jurisdiction with the court of general sessions for Charleston district, of all cases of grand and petit larceny, and in all cases of misdemeanor, arising or committed within the limits of the said city, under any law or laws now in force, or hereafter to be passed, in this State; *Provided*, that nothing herein contained shall extend to any inhabitant of this State, (except transient persons,) not a resident of the said city of Charleston, and no person shall be construed to be a resident of the said city, unless he shall have resided in the said city three calendar months, prior to the commencement of the prosecution against him, or shall have resided within the said city four months during the year immediately preceding the commencement of such prosecution.

Of judgments, Decrees and Executions. II. That all judgments and decrees, now or hereafter to be recovered and entered of record in the said city court of Charleston, and all executions, sued out or to be sued out thereon, and lodged in the office of the sheriff of the said court, shall have the same lien of binding efficacy and operative energy, on the property and persons of the parties defendant thereto, within the judicial district of Charleston, as if such judgments and decrees had been recovered and entered of record in the court of common pleas for the said district, and as if such executions had been lodged in the office of the sheriff of the said district; and it shall be the duty of the sheriff of the said district to execute and enforce all such executions, on property and persons lying or being without the limits of the said city, and within the said district; *provided*, such executions be first entered in the office of the sheriff of the said district, with an order, in writing, from the party suing out the same, or his attorney, endorsed thereon, directed to the said sheriff, and requiring him to execute the same, on person or property, as the case may be, without the limits of the said city, and within the said district, as aforesaid.

Of executions. III. That all executions now sued out, or hereafter to be sued out, from the said city court of Charleston, shall be tested, made returnable, and be returnable, in like manner as is now directed by law in relation to executions sued out from the courts of general sessions and common pleas of this State.

Of Recorder. IV. That it shall and may be lawful for the recorder of the said court, to grant a commission to examine any witnesses residing out of the city, when the testimony of such witnesses may be necessary in any cause depending in the said court.

In the Senate House, the twenty-first day of December, in the year of our Lord one thousand eight hundred and thirty-six, and in the sixty-first year of the Sovereignty and Independence of the United States of America.

PATRICK NOBLE, *President of the Senate.*

D. L. WARDLAW, *Speaker of the House of Representatives.*

Acts relating to Courts.

A. D. 1836.

AN ACT TO ORGANIZE THE COURTS OF THIS STATE.

No. 2681.

I. *Be it enacted* by the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the several courts of law and equity in this State, shall hereafter be held at the times and places as follows, that is to say; for the courts of law: For the southern circuit: at Columbia, on the third Monday in March and October; at Orangeburg, on the fourth Monday in March and October; at Barnwell court house, on the first Monday after the fourth Monday in March and October; at Walterborough, on the second Monday after the fourth Monday in March and October; at Coosawhatchie, or the seat of justice for Beaufort district, on the third Monday after the fourth Monday in March and October. For the south-western circuit: at Abbeville court house, on the third Monday in March, and second Monday in October; at Edgefield court house, on the fourth Monday in March, and third Monday in October; at Newberry court house, on the first Monday after fourth Monday in March, and fourth Monday in October; at Lexington court house, on the second Monday after fourth Monday in March, and first Monday after fourth Monday in October. For the western circuit: At Pickens court house, on the third Monday in March, and second Monday in October; Anderson court house, fourth Monday in March, and third Monday in October; at Greenville court house, on first Monday after fourth Monday in March, and fourth Monday in October; at Spartanburg court house, on the second Monday after fourth Monday in March, and first Monday after the fourth Monday in October; at Laurens court house, on third Monday after fourth Monday in March, and second Monday after fourth Monday in October. For the middle circuit: at Union court house, on the third Monday in March, and second Monday in October; at York court house, on the fourth Monday in March, and third Monday in October; at Chester court house, on the first Monday after the fourth Monday in March, and fourth Monday in October; at Lancaster court house, on the second Monday after the fourth Monday in March, and the first Monday after the fourth Monday in October; at Winnsborough, on the third Monday after the fourth Monday in March, and second Monday after the fourth Monday in October. For the northern circuit: at Chesterfield court house, on the third Monday in March and October; at Kershaw court house, on the fourth Monday in March and October; at Sumter court house, on the first Monday after the fourth Monday in March and October; at Darlington court house, on the second Monday after the fourth Monday in March and October; at Marlborough court house, on the third Monday after the fourth Monday in March and October. For the eastern circuit: at Marion court house, on the fourth Monday in March and October; at Horry court house, on the first Monday after fourth Monday in March and October; at Williamsburg court house, on the second Monday after the fourth Monday in March and October; at Georgetown, on the third Monday after the fourth Monday in March and October; at Charleston, on the first Monday in January, for four weeks, and first Monday in May, for six weeks, and on the first Monday in October, for two weeks, for sessions business. The first day of the Term of the court of common pleas for Charleston district, in January ensuing, shall be return day, and all writs and processes issued to the said term, although another return day be named therein, shall be returnable on the first day of said term.

Places and
time of holding
courts of law.

COURTS OF EQUITY.—At Charleston, on the first Monday in January

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Acts relating to Courts.

Places and
time of holding
courts of equi-
ty.

for four weeks, and first Monday after the fourth Monday in May, for six weeks, if necessary. For the second circuit: at Coosawhatchie, or the seat of justice for Beaufort district, on the first Monday in January; at Walterborough, on the second Monday in January; at Barnwell court house, on the third Monday in January; at Orangeburg, on the fourth Monday in January. For the third circuit: at Sumter court house, on the first Monday in January; at Darlington court house, on the second Monday in January; at Marion court house, on the third Monday in January; at Williamsburg court house, on the fourth Monday in January; and at Georgetown, on Wednesday after Williamsburg, to sit till the business is ended. For the fourth circuit: at Camden, on the first Monday in June; at Columbia, on the second Monday in June; at Lexington court house, the third Monday in June; and at Newberry court house, on the fourth Monday in June. For the fifth circuit: at Edgefield court house, on the first Monday in June; at Abbeville court house, on the second Monday in June; at Anderson court house, on the third Monday in June; at Pickens court house, the Thursday after Anderson; at Greenville court house, the fourth Monday in June; and at Laurens court house, on the Thursday after Greenville, to sit till the business is ended. For the sixth circuit: at Spartanburg court house, on the first Monday in June; at Union court house, on the second Monday in June; at York court house, on the third Monday in June; at Chester court house, on the fourth Monday in June; at Lancaster court house, on the first Monday after the fourth Monday in June; and at Winnsborough, on the second Monday after the fourth Monday in June.

That a special court of equity shall be held at Coosawhatchie, on the fourth Monday after the fourth Monday in March next.

II. That all processes and recognizances heretofore made returnable to the court of any of the said districts, be legal, good, and binding, for the court next to be held in said district, according to this Act.

Causes may be
heard at cham-
bers.

III. That the chancellors, by consent of parties, may hear causes at chambers, when the same are ready for hearing; and they shall be authorized to hold special courts, whenever the same may be deemed necessary, in any of the districts aforesaid.

Commissioners
in equity, and
their duty.

IV. That commissioners in equity shall be elected for the districts of Chesterfield, Marlborough and Horry; and the said commissioners for the districts of Chesterfield and Marlborough shall attend the sitting of the court of Equity at Darlington, and the said commissioner for the district of Horry shall attend the court of equity at Georgetown, with such papers and documents as may be requisite for the hearing and determining of the equity causes of their respective districts.

Court of ap-
peals.

V. That all appeals from the courts of law shall be heard and determined in a court of appeals, consisting of the law judges; and that all appeals in equity shall be heard and determined in a court of appeals, consisting of the chancellors; that the said courts shall meet at the same time, and be held as follows, that is to say: at Charleston, on the first Monday in February, and at Columbia, on the first Monday in May, and fourth Monday in November.

VI. That in all questions of law as distinguished from equity, the court of chancery shall follow the decision of the court of law.

Of appeals.

VII. That upon all constitutional questions arising out of the constitution of this State, or the United States, an appeal shall lie to the whole of the judges assembled to hear such appeals: that an appeal shall also lie to the whole of the judges upon all questions upon which either of the

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courts of appeal shall be divided, or when any two of the judges of the court shall require that a cause be further heard by all the judges.

VIII. That the judges of law and equity, when assembled as aforesaid in one chamber, shall form a court for the correction of all errors in law or equity, in the cases that may be heard before them; and that it shall be the duty of the judges to make all proper rules and regulations for the practice of the said court of errors, and for the mode of bringing causes before them. Court of errors.

IX. That each chancellor shall have power to hear at chambers, and to confirm or refuse to confirm, reports of commissioners in equity, and to make the proper orders thereon, in all matters of account and partition; and shall likewise have power to hear at chambers, and to make the proper orders thereon, all petitions for guardians; *Provided*, that in case of any application to a chancellor at chambers, reasonable notice thereof shall be given to the party or parties in interest. Power of chancellors.

X. That all appeals in law and equity from the district courts held in the district of Barnwell, shall hereafter be heard and determined in Charleston, instead of Columbia, as heretofore, and that the clerk of the appeal court at Columbia shall transmit to the clerk of the appeal court in Charleston, all the cases from the district aforesaid, which shall remain undisposed of at the adjournment of the court of appeals now sitting at Columbia. Cases in Barnwell shall be heard in Charleston.

XI. That this Act shall go into operation from and after the first day of January next.

That all Acts and parts of Acts repugnant hereto, are hereby repealed.

In the Senate House, the twentyfirst day of December, in the year of our Lord one thousand eight hundred and thirtysix, and in the sixty-first year of the Sovereignty and Independence of the United States of America.

PATRICK NOBLE, *President of the Senate.*

D. L. WARDLAW, *Speaker of the House of Representatives.*

AN ACT TO ALTER THE TIME OF THE SITTINGS OF THE COURTS OF No. 2732.
LAW AND EQUITY IN SOME OF THE DISTRICTS OF THIS STATE.

I. *Be it enacted* by the honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the courts of law shall hereafter be held for a part of the Eastern circuit, at the times and places as follows:—at Georgetown, on the second Monday after the fourth Monday in March and October; and at Williamsburgh court house, on the third Monday after the fourth Monday in March and October.

II. *And be it further enacted* by the authority aforesaid, That the courts of equity shall hereafter be held for the second circuit, at the times and places as follows; at Orangeburgh, on the first Monday in January; at Barnwell court house, on the second Monday in January; at Walterborough, on the third Monday in January; and at Coosawhatchee, or the seat of justice for Beaufort district, on the fourth Monday in January;

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Provided, that in the year eighteen hundred and thirty eight, the court of equity at Orangeburgh shall be held on the first Friday in January, for three days, and on the last Monday in April, for six days, unless the business thereof should be sooner dispatched, instead of the first Monday in January as above mentioned.

III. That all writs and processes which shall have been returnable to the aforesaid courts, respectively, according to the laws heretofore in force, shall be legal and valid, to all intents and purposes; and the persons bound thereby shall attend on the days prescribed by this Act for the sitting of the aforesaid courts, respectively.

IV. That all jurors and witnesses already summoned to attend the said courts, respectively, according to the laws heretofore in force, shall be required to attend at the times herein fixed for the sitting of the said courts, respectively; and that all persons now bound, or who shall hereafter be bound, in recognizance to appear in the said courts, respectively, according to the laws heretofore in force, shall be required to appear at the times herein fixed for the sitting of the said courts, respectively.

V. That all Acts and parts of Acts repugnant hereto, or inconsistent herewith, are hereby repealed.

In the Senate House, the twentieth day of December, in the year of our Lord one thousand eight hundred and thirty-seven, and in the sixty-second year of the Sovereignty and Independence of the United States of America.

PATRICK NOBLE, *President of the Senate.*

D. L. WARDLAW, *Speaker of the House of Representatives.*

ACTS RELATING TO SLAVES.

AN ACT FOR THE BETTER ORDERING OF SLAVES.

No. 57.

I. *Be it enacted*, by his Excellency, William, Earle of Craven, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the Commons in this present Parliament assembled, *and it is hereby enacted* by the authority of the same, That no person whatsoever shall send or give leave to any negro or Indian slave, under his or their care, charge or ownership, to go out of their plantations, unless such as usually wait on their persons, without a ticket, or one more white men in their company; in which ticket shall be expressed their names and numbers, and also, from and to what place they are intended for, and time, on penalty of forty shillings, and paying for taking up such slave as a runaway; and whosoever shall not endeavor to apprehend any negro or Indian slave, coming into their plantations aforesaid, or where they have care or charge, (except such as have tickets before excepted as aforesaid,) and apprehending any, shall not punish them by moderate whipping, shall forfeit forty shillings; and if any negro or Indian slave shall offer any violence, by striking or the like, to any white person, he shall for the first offence be severely whipped by the constable, by order of any justice of peace; and for the second offence, by like order, shall be severely whipped, his or her nose slit, and face burnt in some place; and for the third offence, to be left to two justices and three sufficient freeholders, to inflict death, or any other punishment, according to their discretion; *Provided*, such striking or conflict be not by command of or in lawful defence of their owner's persons.

II. *And it is further enacted*, That all slaves shall have convenient clothes, once every year; and that no slave shall be free by becoming a christian, but as to payment of debts, shall be deemed and taken as all other goods and chattels, and when other goods and chattels are not sufficient to


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satisfy the said debts, then so many slaves only as are necessary, as well proportionately out of the slaves assigned for dowry, as those that belong to the heirs and executors, shall be sold for payment of debt; and all negroes and slaves shall be accounted as freehold in all other cases whatsoever, and descend accordingly.

III. *And it is further enacted* by the authority aforesaid, That no person whatsoever, except the sheriff or gaoler, shall keep any runaway slave or slaves above four days, nor shall sheriff or gaoler, or any other whatsoever, employ any of them, or suffer him, her or them in custody, to want convenient food and water, on penalty of forty pounds for every such offence; and if any person shall suffer any slave to die in their custody for want of food or water, or dry and convenient lodgings, the sheriff, gaoler, or any other person in whose custody the negro was, shall pay the owner forty pounds, to be recovered by action of debt, in any court of record within this Province, or be liable to an action of debt for the same.

IV. *And be it further enacted* by the authority aforesaid, That whosoever shall take up any runaway slave or slaves, that such person or persons shall bring the said runaways to his or their proper owners, if they know them, and receive for their pains, eight pence per mile for the first five miles, and six pence per mile for every mile more; *Provided*, it exceed not seventy shillings in the whole; but if they do not know the owners, then to the sheriff or gaoler, upon pain or forfeiture, for every day he or she shall keep such slave or slaves beyond the said four days, and whereof be convicted by confession or verdict, the sum of twenty pounds, to be levied by the sheriff or gaoler, or his lawful deputy, upon the goods and chattels of the persons so neglecting to bring the said runaways; and no person shall receive payment for their taking up any slave or slaves, till he gives an account to the sheriff or gaoler of his own name and place of abode, with the time and place when and where taken up, with an account of the marks most distinguishing, and name, which account of all such slave or slaves coming into his custody, the sheriff or gaoler shall cause to be fairly written and fixed upon a public place in the goal, on the penalty of fifty pounds; and the said sheriff or gaoler shall enter the said account into a book, and also to take a receipt from the person to whom he delivers any runaways, with the name and place of abode of the person to whom delivered; and in case the sheriff or gaoler refuse to make payment for the taking up any runaway slave or slaves, and whereof oath be made before any justice of the peace, the said justice is hereby authorized to direct his warrant to any constable, to cause the value thereof to be immediately levied upon the goods of the said sheriff or gaoler, and the goods to be sold by public outcry, and satisfaction to be made to the complainant, returning the overplus to the said sheriff or gaoler; and that it shall and may be lawful for the sheriff or gaoler to detain and keep in custody the bodies of all such runaways, till the owners of them, or their assigns, shall pay unto him the full sum of what he so pays for them, with two shillings in the pound for laying out the money, and so proportionable for a greater or lesser sum; and also, six pence for every twenty-four hours the said slave hath been in his custody: and if the said sheriff or gaoler shall willingly or negligently suffer any slave or slaves to escape or be employed, or by any ways or means to be out of their custody, before he be duly delivered to the owner or his assigns, then the said sheriff or gaoler shall forfeit to the owners thirty pounds for every slave or slaves so escaping, employed or being out of their custody as aforesaid.

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V. *And be it further enacted* by the authority aforesaid, That every master or mistress or overseer of a family of this Province, shall cause all their slaves houses to be diligently and effectually searched, once every month, for clubs, guns, swords and mischievous weapons, and finding any, shall take them away and cause them to be destroyed, and also upon request made, to search the same for stolen chattels, or any other things or commodities that is not given them by their owners or honestly come by; and in whose custody they shall find any thing suspected or known to be stolen goods, the same shall seize and take into their custody, and a full and ample description of the particulars thereof in writing, within six days after the discovery thereof, shall send to the sheriff or gaoler for the time being, who is hereby required to receive the same, and enter upon it the day of its receipt, and set up notices in writing, publicly, that such goods are found, to the end the owner, giving the sheriff or gaoler proof, by marks or otherwise, that the goods so taken belongs to him, he may have the same, paying twelve pence to the sheriff or gaoler for his entry and declaration of the same; and the parties by whom such lost goods are taken into custody, are hereby required to make restitution of what is in being to the owner, on the penalty of ten pounds for every neglect by the master, mistress, overseer, or sheriff or gaoler, as aforesaid.

VI. *And be it further enacted* by the authority aforesaid, That if any slave shall take up any runaway, he or she shall have the whole benefit thereof; and if any shall deprive a slave of the same benefit, and not lay the same out in chattels or otherwise, at the discretion of the owner, they shall forfeit treble the value.

VII. *And be it further enacted* by the authority aforesaid, That no person whatsoever shall attempt or endeavor to steal or carry off this Province, any slave, on penalty of sixty pounds; but whosoever shall actually do the same, shall be guilty of felony, and be excluded from the benefit of his clergy.

VIII. *And it is further enacted* by the authority aforesaid, That upon complaint made to any justice of the peace, of any heinous or grievous crime, committed by any slave or slaves, as burglary, robbery, burning of houses, killing or stealing of any neat or other cattle, or other petty injuries, as maiming one of the other, stealing of fowls, provisions, or such like trespass or injuries, the said justice shall issue his warrant for apprehending the offenders, and for all persons to come before him that can give evidence, and if upon examination, it probably appeared that the apprehended are guilty, he shall commit them to prison or take security for their forthcoming, as the case shall require, and also to certify to the justice next to him the said cause, and to require him by virtue of this Act to associate himself to him, (which such justice is hereby required to do,) and they so associated are to issue their summons to three discreet and sufficient freeholders, acquainting them with the matter, and appointing them a day, hour and place, when and where the same shall be heard and determined, at which day hour and place, the said justices and freeholders shall cause the offenders and evidences to come before them; and if they, on hearing the matter, (the said freeholders being by the said justices first sworn to judge impartially and according to evidence,) shall adjudge the criminal or criminals guilty of the offence complained of, they shall give sentence of death, if the crime by law deserve the same, or such other punishment as the crime deserveth; and forthwith by their warrant cause immediate execution to be done, by the common or any other executioner, in such manner

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as they shall think fit; and if the crime committed shall not deserve death, they shall condemn and adjudge the criminal or criminals to the party or partys injured, and to his, her or their heirs forever, after they have received such corporal punishment as the said justices and freeholders shall appoint, unless the owners shall pay to the parties injured such sum or sums of money for the value of such time or times, as the justices or freeholders shall appoint; and if any justice or freeholder shall neglect his duty above required, he shall forfeit twenty pounds; *Provided nevertheless*, that when and as often as any of the aforementioned crimes be committed by more than one negro that shall deserve death, that then and in all such cases, only one of the said criminals shall suffer death, as exemplary, the rest to be returned to the owners, which owners of slaves so offending, shall bear proportionably the loss of the said negro so put to death, and also proportionably the damage done by the said criminals to the party or parties injured, as shall be allotted them by the said justices and freeholders; and if any person shall refuse to pay his part so allotted him, that then and in all such cases, the said justices and freeholders are hereby required to issue out their warrant of distress upon the goods and chattels of the person so refusing, and shall cause the same to be sold by the public outcry, to satisfy the said money so allowed him to pay, and to return the overplus, if any be, to the owner.

IX. *And it is further enacted* by the authority aforesaid, That every Captain of a company in this Province, shall be, and is hereby, empowered and required, on notice to him given, of the haunt, residence or hiding place of any runaway slave, to raise a convenient party of men, not exceeding twenty, and with them to pursue, apprehend and take the said runaways, either alive or dead; and whatsoever officer shall neglect his or their duty herein, shall forfeit the sum of twenty pounds.

X. *And it is further enacted* by the authority aforesaid, That if any slave or slaves shall commit any murder, or make any insurrection, or raise rebellion against their master's authority, or make any preparations of arms, as powder, bullets, or offensive weapons, or hold any conspiracies for raising mutinies and rebellion, the offender shall be tried by two justices of the peace, and three able freeholders, associated together as before expressed, who are hereby empowered and required to try the said slaves so offending, and inflict death, or any other punishment, upon the said offenders, and forthwith by their warrant cause execution to be done by the common or any other executioner, in such manner as they shall think fit; and if any person shall make away or conceal any slave or slaves suspected to be guilty of the afore mentioned crime, and not upon demand bring forth the suspected offender or offenders, such person shall forfeit one hundred pounds.

XI. *And it is further enacted* by the authority aforesaid, That the sheriff or gaoler shall give an account in writing, at every sessions within this Province, as often as the same shall be held, of what negroes he hath in prison, with their marks and names, and the time they have been in his custody, and as near as he can learn, how long each hath been from his respective owners, on penalty of fifty pounds for every default.

XII. *And it is further enacted* by the authority aforesaid, That if any slave, by punishment from the owner for running away or other offence, shall suffer in life or limb, no person shall be liable to the law for the same; but if any one out of wilfulness, wantonness, or bloody mindedness, shall kill a

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slave, he or she, upon due conviction thereof, shall suffer three months imprisonment, without bail or mainprize, and also pay the sum of fifty pounds to the owner of such slave; but if the person so offending be a servant, he or she shall receive on his or her bare backs, nine and thirty lashes, by order of any two justices of the peace, before whom the matter shall be proved, and after the expiration of his or her time with his or her master or mistress, he or she shall be further liable to serve the owner or owners of such slave the full term of four years, by order of the said justices of the peace; and if any person shall kill a slave stealing in his house or plantation by night, the said slave refusing to submit himself, such person shall not be liable to any damage or action for the same; any law, custom or usage to the contrary notwithstanding.

XIII. *And it is further enacted* by the authority aforesaid, That this Act be read and published by the clerk at the next court of pleas, after the ratification, as also by the clerk of the crown at the next sessions, on penalty of five pounds sterling for each default.

XIV. *And be it further enacted* by the authority aforesaid, That every master, mistress, manager or overseer of any plantation, or owner of any slave or slaves in this part of the Province, shall not, after the ratification of this Act, give or allow any Saturday in the afternoon, to any negro or slave, as hath been accustomed formerly, upon the penalty of seven shillings for every such default made contrary to the true intent and meaning of this Act.

XV. *And it is further enacted* by the authority aforesaid, That all penalties mentioned in this Act, and not declared where they shall be recovered, or how disposed of, not exceeding forty shillings, shall be recovered by warrant from any justice of the peace, and all penalties exceeding forty shillings shall be recovered by action of debt, in the court of pleas of this Province; one moiety or half part of all such forfeitures shall be to the public use of the Province, for buying and providing powder and ammunition, and the other moiety or half part shall be to the informer, or they that shall sue for the same.

Read three times and passed, and ratified in open Parliament, the seventh day of February, Anno Domini, 1690.

SETH SOTHELL,
G. MUSCHAMP,
JOHN BERESFORD,
JOHN HARRIS.

AN ACT FOR RAISING AND ENLISTING SUCH SLAVES AS SHALL BE THOUGHT SERVICEABLE TO THIS PROVINCE IN TIME OF ALARMS. No. 237.

WHEREAS, among the several slaves belonging to this Colony, there are a great number of them who, by care and discipline, may be rendered serviceable towards the defence and preservation of this Province, in case of actual invasion; in order, therefore, to make the assistance of our said trusty slaves more certain and regular;

I. *Be it enacted* by his Excellency John P. Granville, Pallatine, and the

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rest of the true and absolute lords and proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown, for the south-west part of this Province, and by the authority of the same, That within thirty days after ratification of this Act, the several captains or commanders of companies throughout this Province do, by virtue of a warrant under their hands and seals, empower and commissionate five freeholders in their respective divisions, (being sober, discreet men,) to form and complete a list of such negroes, mulattoes and Indian slaves, as they, or any three of them, shall judge serviceable for the purpose aforesaid; which said commissioners, after having finished their said lists, are to warn and summons the masters, mistresses or overseers to whom the said slaves do belong, to appear before them at a certain day, to shew cause (if any) why their said slave or slaves so chosen, should not continue in the said list, of which reasons, the said commissioners, or any three of them, are hereby made competent judges, to allow or disapprove, as they in their discretion shall think fit; and further to direct and require the several masters, mistresses or overseers of the said slaves, on time of alarm or other special summons, that they cause their several slaves so enlisted, and armed either with a serviceable lance, hatchet or gun, with sufficient ammunition and hatchets, according to the convenience of the said owners, to appear under the colours of the respective captains, in their several divisions, throughout this Province, there to remain and be disposed in such manner as the said officers or the commander-in-chief shall direct and appoint, for the public service. And the said commissioners are hereby further directed and required, that within ten days after their completing the said lists, they do return the same to their respective captains, in each division, under their hands and upon their oaths, as a true, fair, impartial list of the said slaves, according to the best of their judgment; the oath to be administered by the several captains, on return of the said lists. And the said captains are hereby also required, that within ten days after the receipt of the said lists, they present the same to the right honorable the Governour, and receive such instructions for the disposal and management of the said slaves, as his honour shall prescribe and think fit, and as may best suit the public safety, intended hereby.

II. *And be it further enacted* by the authority aforesaid, That if any master, mistress, manager or overseer of such slave or slaves, so enlisted as aforesaid, do refuse to obey the summons sent them, to appear before the said commissioners, or otherwise, in time of alarm or other special summons, neglect to send his or her slave or slaves, armed and equipped as aforesaid, to the common and usual rendezvous of their respective divisions, that then, and in such case, the master, mistress, manager or overseer, so neglecting or refusing, as aforesaid, shall, for each neglect or refusal, forfeit the sum of five pounds, or value thereof, to be distrained by the next constable, by virtue of a warrant under the hand and seal of such captain in whose division the said default is made, and the distress to be appraised by two or more of the neighboring freeholders; the forfeiture to be paid by the said captain into the hands of the receiver, for the use of the public, and after charge of distraining, the overplus, (if any,) to be returned to the owners thereof.

III. *And be it further enacted* by the authority aforesaid, That if any slaves enlisted as aforesaid shall happen to be killed or maimed in actual service, by the enemy, then the master or owner of such slave so killed or maimed, as aforesaid, shall be satisfied and paid for the same, by the public,

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at such rate and value as three free-holders of the neighborhood, appointed by the Governor, on their oaths, shall award; on which award, so returned, the Governor is hereby impowered to order the receiver to pay the same.

IV. *And be it further enacted*, That this Act, and every thing therein contained, shall continue in force two years, and no longer.

Read three times, and ratified in open Assembly, the fourth day of November, 1704.

N. JOHNSON.
THOS. BROUGHTON.
JA. MOORE.
NICHOLAS TROTT.
ROBT. GIBBES.
HENRY NOBLE.

AN ACT FOR ENLISTING SUCH TRUSTY SLAVES AS SHALL BE THOUGHT No. 278.
SERVICEABLE TO THIS PROVINCE IN TIME OF ALARMS.

WHEREAS, it is necessary for the safety of this Province, in case of actual invasion, to have the assistance of our trusty slaves, to serve us against our enemies; and it being reasonable that the said slaves should be rewarded for the good service they may do us, and that satisfaction may be made to the owners of such slaves, either on their death, freedom or maiming:

I. *Be it enacted* by his Excellency John Lord Granville, Pallatine, and the rest of the true and absolute lords and proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown, for the south-west part of this Province, and by the authority of the same, That within fifteen days after the ratification of this Act, the several captains of patrols, captains, lieutenants and ensigns of the companies throughout this Province, form and complete a list of such negroes, mulattoes and Indian slaves, as they, or any two of them, shall judge serviceable for the purpose aforesaid, not exceeding the number of white men under the command of each respective captain, excepting one man slave, which shall be at the choice of his master, to attend upon him upon alarms, armed with a gun and hatchet, or cutlass, at his own proper cost and charge; which said officers, after having finished their said lists, are to warn and summons the masters, mistresses or overseers to whom the said slaves do belong, to appear before them at a certain day, to shew cause (if any) why their said slave or slaves so chosen, should not continue in the said list; of which reasons, the said officers, or any three of them, are hereby made complete judges, to allow or disapprove, as they, in their discretion, shall think fit.

II. *And be it enacted* by the authority aforesaid; That every slave enlisted as aforesaid, upon an alarm shall repair at the colours of the respective captains in their several divisions throughout this Province, and on an actual invasion, shall be accoutred and armed by the captain of each division, out of the public stores, with a good lance and hatchet or gun, with sufficient ammunition and hatchet; and if armed as aforesaid, by their

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respective master, mistress or overseer, the same, if lost or damaged, to be paid and allowed them by the public; and the said officers are hereby further directed and required, that within five days after their completing the said list, they do return the same, under their hands and upon their oaths, as a true, fair and impartial list of the said slaves, according to the best of their judgments; the oath to be administered by the next justice of peace. And the said captains are hereby also required, that within ten days after being sworn, that they present the same to the right honorable the Governor, and receive such instructions for the disposal and management of the said slaves at times of an alarm and invasion, as his honor shall prescribe and think fit, and as may best suit the public safety, intended hereby.

III. *And be it further enacted* by the authority aforesaid, That if the said officers, or any of them, shall neglect or refuse to execute and perform all and whatsoever is directed and enjoined them by this Act, that then the officer or officers so neglecting or refusing as aforesaid, shall, for each neglect or refusal, forfeit the sum of five pounds each, to be recovered as in this Act is hereafter prescribed in the case of the master or mistresses their neglect or refusal to perform their part, prescribed by this Act.

IV. *And be it further enacted* by the authority aforesaid, That if any master, mistress, manager or overseer of such slave or slaves so enlisted, as aforesaid, do refuse or neglect to send his or her slave or slaves, in time of alarm, as aforesaid, to the common and usual rendezvous of their respective divisions, that then, and in such case, the master, mistress, manager or overseer so neglecting or refusing as aforesaid, shall, for each neglect or refusal, forfeit the sum of five pounds, or value thereof, to be distrained by the next constable, by virtue of a warrant under the hand and seal of such captain in whose division the said default is made; and the distress to be appraised by two or more of the neighboring free-holders; the forfeiture to be paid by the said captains into the hands of the receiver, for the use of the public, and after the charge of distraining, the overplus (if any be) to be returned to the owners thereof.

V. *Be it further enacted* by the authority aforesaid, That if any slave shall, in actual invasion, kill or take one or more of our enemies, and the same shall prove, by any white person, to be done by him, shall, for his reward, at the charge of the public, have and enjoy his freedom, for such his taking or killing, as aforesaid; and the master or owner of such slave shall be paid and satisfied by the public, at such rates and prices as three free-holders of the neighborhood, who well know the said slave, being nominated and appointed by the right honorable the Governor, or Governor for the time being, shall award on their oaths; on which award so returned, the Governor, or the Governor for the time being, is hereby impowered to order the public receiver to pay the same, who is hereby required and commanded to pay the same accordingly. And if any of the said slaves happen to be killed or taken, in actual service of this Province, by the enemy, or after enlisted, as aforesaid, shall desert and run over to the enemy, in time of an invasion, then the master or owner shall be paid and satisfied for him, in such manner and form as is before appointed to owners whose slaves are set free.

VI. *And be it further enacted* by the authority aforesaid, That if any slave, in actual service of this Province, is wounded, so that he is disabled for service to his master or owner, then such slave, so disabled, shall be set

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free, at the charge of the public, in such manner and form as afore is provided, and shall also be maintained at the charge of the said public.

VII. *And be it further enacted* by the authority aforesaid, That the three last paragraphs in an Act entitled "An additional Act to an Act entitled an Act to prevent the sea's further incroachment upon the wharf at Charlestown, and for building more batteries and flankers on the said wall to be built upon the said wharf, and also for the fortifying the remaining parts of Charlestown, by intrenchments, flankers and pallsadoes, and appointing a garison to the southward," ratified in open Assembly, the twenty-third day of December, one thousand seven hundred and three, are hereby declared repealed, annulled and made void; any thing in the forerecited three last paragraphs, in the said additional Act contained, to the contrary, notwithstanding.

VIII. *Whereas*, at this time, it is thought necessary for the general safety of this Province, to lay an imbargo to confine all persons not to depart this Province, the limitation of which being of larger extent than the signals of alarm can be heard; *Be it enacted* by the authority aforesaid, That if any free male person above the age of sixteen, now residing, or which may hereafter come into this Province, except such persons whose chief residence are not in the limits hereafter mentioned, and shall, (during the said imbargo,) go further to the northward of Charlestown than Santee river, or to the southward than the Savannah river, or to the westward than twenty miles of the plantation of William Follingsbey, (without special leave from the governor,) shall forfeit the sum of fifty pounds, or one year imprisonment; and also, that if any free person doth refuse to appear under their respective colours, in time of alarm, and from thence to march to such place or places as the General or Commander-in-chief shall appoint, shall forfeit the sum of fifty pounds, or one year imprisonment; the said fines to be recovered as the fines in the militia Act is directed, and to be paid to the public receiver, for the use of the public.

IX. *Provided nevertheless, and be it further enacted* by the authority aforesaid, That nothing in this Act, nor in the Act commonly called the Militia Act, or any other Act now in force in this Province, shall be construed or intended to abridge the power of the right honorable the Governor, or the Governor for the time being, in proclaiming marshal law in time of actual invasion, but that in such case, it shall be lawful for him to proclaim marshal law, and execute all the powers and authorites that to a captain general do or may of right belong, by the charter granted by the Crown of England to the lords proprietors of this Province.

X. *And be it further enacted* by the authority aforesaid, That this Act, and every thing therein contained, (except the last paragraph,) do continue in force during the time and space of two years, and from thence to the next sessions of the General Assembly after, and no longer.

Read three times, and ratified in open Assembly, this twenty-fourth day of April, Anno Domini 1708.

N. JOHNSON.
HENRY NOBLE.
JAMES RISBEE.
NICHOLAS TROTT.
CHA. BURNHAM.

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No. 314. AN ACT FOR THE BETTER ORDERING AND GOVERNING OF NEGROES
AND SLAVES.

WHEREAS, the plantations and estates of this Province cannot be well and sufficiently managed and brought into use, without the labor and service of negroes and other slaves; and forasmuch as the said negroes and other slaves brought unto the people of this Province for that purpose, are of barbarous, wild, savage natures, and such as renders them wholly unqualified to be governed by the laws, customs, and practices of this Province; but that it is absolutely necessary, that such other constitutions, laws and orders, should in this Province be made and enacted, for the good regulating and ordering of them, as may restrain the disorders, rapines and inhumanity, to which they are naturally prone and inclined; and may also tend to the safety and security of the people of this Province and their estates; to which purpose,

I. *Be it therefore enacted*, by his Excellency, William, Lord Craven, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown, for the South-west part of this Province, and by the authority of the same, That all negroes, mulattoes, mustizoes or Indians, which at any time heretofore have been sold, or now are held or taken to be, or hereafter shall be bought and sold for slaves, are hereby declared slaves; and they, and their children, are hereby made and declared slaves, to all intents and purposes; excepting all such negroes, mulattoes, mustizoes or Indians, which heretofore have been, or hereafter shall be, for some particular merit, made and declared free, either by the Governor and council of this Province, pursuant to any Act or law of this Province, or by their respective owners or masters; and also, excepting all such negroes, mulattoes, mustizoes or Indians, as can prove they ought not to be sold for slaves. And in case any negro, mulattoe, mustizoe or Indian, doth lay claim to his or her freedom, upon all or any of the said accounts, the same shall be finally heard and determined by the Governor and council of this Province.

II. And for the better ordering and governing of negroes and all other slaves in this Province, *Be it enacted* by the authority aforesaid, That no master, mistress, overseer, or other person whatsoever, that hath the care and charge of any negro or slave, shall give their negroes and other slaves leave, on Sundays, hollidays, or any other time, to go out of their plantations, except such negro or other slave as usually wait upon them at home or abroad, or wearing a livery; and every other negro or slave that shall be taken hereafter out of his master's plantation, without a ticket, or leave in writing, from his master or mistress, or some other person by his or her appointment, or some white person in the company of such slave, to give an account of his business, shall be whipped; and every person who shall not (when in his power,) apprehend every negro or other slave which he shall see out of his master's plantation, without leave as aforesaid, and after apprehended, shall neglect to punish him by moderate whipping, shall forfeit twenty shillings, the one half to the poor, to be paid to the church wardens of the Parish where such forfeiture shall become due, and the other half to him that will inform for the same, within one week after such neglect; and that no slave may make further or other use of any one ticket than was intended by him that granted the same, every ticket shall particularly mention the name of every slave employed in the particular

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business, and to what place they are sent, and what time they return; and if any person shall presume to give any negro or slave a ticket in the name of his master or mistress, without his or her consent, such person so doing shall forfeit the sum of twenty shillings; one half to the poor, to be disposed of as aforesaid, the other half to the person injured, that will complain against the person offending, within one week after the offence committed. And for the better security of all such persons that shall endeavor to take any runaway, or shall examine any slave for his ticket, passing to and from his master's plantation, it is hereby declared lawful for any white person to beat, maim or assault, and if such negro or slave cannot otherwise be taken, to kill him, who shall refuse to shew his ticket, or, by running away or resistance, shall endeavor to avoid being apprehended or taken.

III. *And be it further enacted* by the authority aforesaid, That every master, mistress or overseer of a family in this Province, shall cause all his negro houses to be searched diligently and effectually, once every fourteen days, for fugitive and runaway slaves, guns, swords, clubs, and any other mischievous weapons, and finding any, to take them away, and cause them to be secured; as also, for clothes, goods, and any other things and commodities that are not given them by their master, mistress, commander or overseer, and honestly come by; and in whose custody they find any thing of that kind, and suspect or know to be stolen goods, the same they shall seize and take into their custody, and a full and ample description of the particulars thereof, in writing, within ten days after the discovery thereof, either to the provost marshal, or to the clerk of the parish for the time being, who is hereby required to receive the same, and to enter upon it the day of its receipt, and the particulars to file and keep to himself; and the clerk shall set upon the posts of the church door, and the provost marshal upon the usual public places, or places of notice, a short brief, that such lost goods are found; whereby, any person that hath lost his goods may the better come to the knowledge where they are; and the owner going to the marshal or clerk, and proving, by marks or otherwise, that the goods lost belong to him, and paying twelve pence for the entry and declaration of the same, if the marshal or clerk be convinced that any part of the goods certified by him to be found, appertains to the party inquiring, he is to direct the said party inquiring to the place and party where the goods be, who is hereby required to make restitution of what is in being to the true owner; and every master, mistress or overseer, as also the provost marshal or clerk, neglecting his duty in any the particulars aforesaid, for every neglect shall forfeit twenty shillings.

IV. And for the more effectual detecting and punishing such persons that trade with any slave for stolen goods, *Be it further enacted* by the authority aforesaid, That where any person shall be suspected to trade as aforesaid, any justice of the peace shall have power to take from him suspected, sufficient recognizance, not to trade with any slave contrary to the laws of this Province; and if it shall afterwards appear to any of the justices of the peace, that such person hath, or hath had, or shipped off, any goods, suspected to be unlawfully come by, it shall be lawful for such justice of the peace to oblige the person to appear at the next general sessions, who shall there be obliged to make reasonable proof, of whom he bought, or how he came by, the said goods, and unless he do it, his recognizance shall be forfeited.

V. *And be it further enacted* by the authority aforesaid, That no negro or slave shall carry out of the limits of his master's plantation any sort

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of gun or fire arms, without his master, or some other white person by his order, is present with him, or without a certificate from his master, mistress or overseer, for the same; and if any negro or slave shall be so apprehended or taken, without the limits aforesaid, with any gun or fire arms as aforesaid, such arms shall be forfeited to him or them that shall apprehend or take the same; unless the person who is the owner of the arms so taken, shall in three months time redeem the arms so taken, by paying to the person that took the same, the sum of twenty shillings.

VI. *And be it further enacted* by the authority aforesaid, That every master or head of any family, shall keep all his guns and other arms, when out of use, in the most private and least frequented room in the house, upon the penalty of being convicted of neglect therein, to forfeit three pounds.

VII. *And whereas*, great numbers of slaves which do not dwell in Charlestown, on Sundays and holidays resort thither, to drink, quarrel, fight, curse and swear, and profane the Sabbath, and using and carrying of clubs and other mischievous weapons, resorting in great companies together, which may give them an opportunity of executing any wicked designs and purposes, to the damage and prejudice of the inhabitants of this Province; for the prevention whereof, *Be it enacted* by the authority aforesaid, That all and every the constables of Charlestown, separately on every Sunday, and the holidays at Christmas, Easter and Whitsonside, together with so many men as each constable shall think necessary to accompany him, which he is hereby empowered for that end to press, under the penalty of twenty shillings to the person that shall disobey him, shall, together with such persons, go through all or any the streets, and also, round about Charlestown, and as much further on the neck as they shall be informed or have reason to suspect any meeting or concourse of any such negroes or slaves to be at that time, and to enter into any house, at Charlestown, or elsewhere, to search for such slaves, and as many of them as they can apprehend, shall cause to be publicly whipped in Charlestown, and then to be delivered to the marshal, who for every slave so whipped and delivered to him by the constable, shall pay the constable five shillings, which five shillings shall be repaid the said marshal by the owner or head of that family to which the said negro or slave doth belong, together with such other charges as shall become due to him for keeping runaway slaves; and the marshal shall in all respects keep and dispose of such slave as if the same was delivered to him as a runaway, under the same penalties and forfeiture as hereafter in that case is provided; and every constable of Charlestown which shall neglect or refuse to make search as aforesaid, for every such neglect shall forfeit the sum of twenty shillings.

VIII. *And be it further enacted* by the authority aforesaid, That no owner or head of any family shall give a ticket to any slave to go to Charlestown, or from plantation to plantation, on Sunday, excepting it be for and about such particular business as cannot reasonably be delayed to another time, under the forfeiture of ten shillings; and in every ticket in that case given, shall be mentioned the particular business that slave is sent about, or that slave shall be dealt with as if he had no ticket.

IX. *And be it further enacted* by the authority aforesaid, That upon complaint made to any justice of the peace, of any heinous or grievous crime, committed by any slave or slaves, as murder, burglary, robbery, burning of houses, or any lesser crimes, as killing or stealing any neat or other cattle, maiming one the other, stealing of fowls, provisions, or such like trespasses or injuries, the said justice shall issue out his warrant for apprehending the

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offender or offenders, and for all persons to come before him that can give evidence; and if upon examination, it probably appeareth, that the apprehended person is guilty, he shall commit him or them to prison, or immediately proceed to tryal of the said slave or slaves, according to the form hereafter specified, or take security for his or their forthcoming, as the case shall require, and also to certify to the justice next to him, the said cause, and to require him, by virtue of this Act, to associate himself to him, which said justice is hereby required to do, and they so associated, are to issue their summons to three sufficient freeholders, acquainting them with the matter, and appointing them a day, hour and place, when and where the same shall be heard and determined, at which day, hour and place, the said justices and freeholders shall cause the offenders and evidences to come before them, and if they, on hearing the matter, the said freeholders being by the said justices first sworn to judge uprightly and according to evidence, and diligently weighing and examining all evidences, proofs and testimonies, (and in case of murder only, if on violent presumption and circumstances,) they shall find such negro or other slave or slaves guilty thereof, they shall give sentence of death, if the crime by law deserve the same, and forthwith by their warrant cause immediate execution to be done, by the common or any other executioner, in such manner as they shall think fit, the kind of death to be inflicted to be left to their judgment and discretion; ; and if the crime committed shall not deserve death, they shall then condemn and adjudge the criminal or criminals to any other punishment, but not extending to limb or disabling him, without a particular law directing such punishment, and shall forthwith order execution to be done accordingly.

X. And in regard great mischiefs daily happen by petty larcenies committed by negroes and slaves of this Province, *Be it further enacted* by the authority aforesaid, That if any negro or other slave shall hereafter steal or destroy any goods, chattels, or provisions whatsoever, of any other person than his master or mistress, being under the value of twelve pence, every negro or other slave so offending, and being brought before some justice of the peace of this Province, upon complaint of the party injured, and shall be adjudged guilty by confession, proof, or probable circumstances, such negro or slave so offending, excepting children, whose punishment is left wholly to the discretion of the said justice, shall be adjudged by such justice to be publicly and severely whipped, not exceeding forty lashes; and if such negro or other slave punished as aforesaid, be afterwards, by two justices of the peace, found guilty of the like crimes, he or they, for such his or their second offence, shall either have one of his ears cut off, or be branded in the forehead with a hot iron, that the mark thereof may remain; and if after such punishment, such negro or slave for his third offence, shall have his nose slit; and if such negro or other slave, after the third time as aforesaid, be accused of petty larceny, or of any of the offences before mentioned, such negro or other slave shall be tried in such manner as those accused of murder, burglary, &c. are before by this Act provided for to be tried, and in case they shall be found guilty a fourth time, of any the offences before mentioned, then such negro or other slave shall be adjudged to suffer death, or other punishment, as the said justices shall think fitting; and any judgment given for the first offence, shall be a sufficient conviction for the first offence; and any after judgment after the first judgment, shall be a sufficient conviction to bring the offender within the penalty of the second offence, and so for inflicting

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the rest of the punishments; and in case the said justices and freeholders, and any or either of them, shall neglect or refuse to perform the duties by this Act required of them, they shall severally, for such their defaults, forfeit the sum of twenty-five pounds.

XI. *And be it further enacted* by the authority aforesaid, That if any person shall send his negro out of this Province, that hath killed another negro or slave, such person shall pay unto the master or owner of such negro, the full value of such negro so killed as aforesaid; and in case any person shall send, or cause to be sent, his negro out of this Province, that hath killed any white person, knowing the negro to be guilty of such crime, he shall forfeit the sum of five hundred pounds, to the executors of the person killed; to be recovered by action of debt in the court of common pleas in this Province, the action to be brought at any time within one year after the fact committed.

XII. *And it is further enacted* by the authority aforesaid, That if any negroes or other slaves shall make mutiny or insurrection, or rise in rebellion against the authority and government of this Province, or shall make preparation of arms, powder, bullets or offensive weapons, in order to carry on such mutiny or insurrection, or shall hold any counsel or conspiracy for raising such mutiny, insurrection or rebellion, the offenders shall be tried by two justices of the peace and three freeholders, associated together as before expressed in case of murder, burglary, &c., who are hereby empowered and required to try the said slaves so offending, and inflict death, or any other punishment, upon the offenders, and forthwith by their warrant cause execution to be done, by the common or any other executioner, in such manner as they shall think fitting; and if any person shall make away or conceal any negro or negroes, or other slave or slaves, suspected to be guilty of the beforementioned crimes, and not upon demand bring forth the suspected offender or offenders, such person shall forfeit for every negro or slave so concealed or made away, the sum of fifty pounds; *Provided, nevertheless*, that when and as often as any of the beforementioned crimes shall be committed by more than one negro, that shall deserve death, that then and in all such cases, if the Governor and council of this Province shall think fitting, and accordingly shall order, that only one or more of the said criminals should suffer death as exemplary, and the rest to be returned to the owners, that then, the owners of the negroes so offending, shall bear proportionably the loss of the said negro or negroes so put to death, as shall be allotted them by the said justices and freeholders; and if any person shall refuse his part so allotted him, that then, and in all such cases, the said justices and freeholders are hereby required to issue out their warrant of distress upon the goods and chattels of the person so refusing, and shall cause the same to be sold by public outcry, to satisfy the said money so allotted him to pay, and to return the overplus, if any be, to the owner; *Provided, nevertheless*, that the part allotted for any person to pay for his part or proportion of the negro or negroes so put to death, shall not exceed one sixth part of his negro or negroes so excused and pardoned; and in case that shall not be sufficient to satisfy for the negro or negroes that shall be put to death, that the remaining sum shall be paid out of the public treasury of this Province.

XIII. *And be it further enacted* by the authority aforesaid, That the confession of any slave accused, or the testimony of any other slave, that the justices and freeholders shall have reason to believe to speak truth, shall be held for good and convincing evidence in all petty larcenies or

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trespasses, not exceeding forty shillings; but no negro or other slave shall suffer loss of life or limb, but such as shall be convicted, either by their own free and voluntary confession, or by the oath of christian evidence, or, at least, by the plain and positive evidence of two negroes or slaves, so circumstantiated as that there shall not be sufficient reason to doubt the truth thereof, and examination being always made, if the negroes or slaves that give evidence, do not bear any malice to the other slave accused; excepting in the case of murder, in which case, the evidence of one slave, attended with such circumstances as that the justices and freeholders shall have no just reason to suspect the truth thereof, of which they are hereby made judges, or upon violent presumption of the accused person's guilt, the said justices and freeholders may declare the accused person guilty, and may give sentence of death upon him accordingly, and award execution, as before directed by this Act.

XIV. *Whereas*, divers evil and ill-disposed persons have hitherto attempted to steal away negroes or other slaves, by specious pretence of promising them freedom in another country, against which pernicious practice no punishment suitable hath been yet provided; *Be it therefore enacted* by the authority aforesaid, That if any white person, either free-man or servant, at any time after the ratification of this Act, shall, directly or indirectly, tempt or persuade any negro or negroes, or other slave or slaves, to leave his or their master's or mistress's service, to whom they are slaves, out of an intent or design to carry away him or them off from this Province, such person shall forfeit and pay unto such master or mistress so grieved, the sum of twenty-five pounds; or in case there be more than two negroes or slaves so tempted and enticed, the person that shall be guilty of the same shall forfeit and pay the sum of ten pounds for each negro or slave so by him tempted and persuaded as aforesaid; the said forfeitures to be sued for and recovered by action of debt, by the person grieved, that will sue for the same in the court of common pleas in this Province, at any time within six months after the offence committed; and in case the person shall not have sufficient to satisfy such judgment, but shall lie in prison, upon execution for the same, the space of three months, that then it shall be lawful for the chief justice to adjudge such person a servant to the person injured and obtaining the judgment, for any time not exceeding five years, and accordingly shall deliver him over to him, and make a record thereof; but if any person shall so tempt and practice with any person's negroe or negroes or other slave or slaves, and him or them actually so attempted convey away or send off from this Province, or be taken in the very act of taking or carrying him or them away, in order to carry him or them off from this Province, and shall at the court of general sessions, assize or gaol delivery, be legally convicted of the same, such offence is hereby declared felony, without benefit of clergy, and the offender shall suffer death as a felon accordingly.

XV. *And be it further enacted* by the authority aforesaid, That in case any negro or slave shall run from his master or mistress, with intent to go off from this Province, in order to deprive his master or mistress of his service, such negro or slave, being declared guilty of the same by two justices and three freeholders, as aforesaid, shall suffer the pains of death; and in case any negro or slave shall be guilty of enticing or persuading any other negro or slave to run from their master's or mistress's service, in order to go off from this Province, and being convicted of the same, before


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two justices and three freeholders, he shall be severely whipped, not exceeding forty lashes, and shall also be branded in the forehead with a hot iron, that the mark thereof may remain. But if any negro or other slave shall so tempt and practice with any negro or negroes, or other slave or slaves, and him or them so tempted, actually convey away, or send off from this Province, or be taken in the very act of taking or carrying him or them away, in order to carry him or them off and from this Province, such negro or slave, so tempting and persuading the other negro or slave, as aforesaid, being found guilty of the fact, by two justices and three freeholders, as before directed in this Act, shall suffer the pains of death; and the negro or negroes, or other slave or slaves, so consenting to the persuasion and inticement of the other negro, and shall so go off from this Province, or be taken in the very act of running from his or their master or mistress, in order to go off from this Province, and being adjudged guilty of the same, by two justices and three freeholders, as aforesaid, they, the said two justices and three freeholders, shall give sentence of death, or other punishment, as they shall think fitting, against the criminal or criminals, and by their warrant cause execution to be done accordingly.

XVI. Now, forasmuch as the loss of the negroes and other slaves that shall suffer death, or be killed, by this Act, would prove too heavy for the owners of them to bear, and that the owners of negroes and slaves may not be discouraged to detect and discover the offences of their negroes and slaves, and that the loss may be borne by the public, whose safety, by such punishments, is hereby provided for and intended, *Be it therefore enacted* by the authority aforesaid, That in all cases whatsoever, where any negro or other slave, by the appointment and provision of this Act, shall suffer death, then all such justices and freeholders who adjudged such negro or other slave to suffer death, immediately after return thereof given, shall inquire, by the best means they are able, of the full and true value of such negro or slave, and make certificate thereof to the public receiver for the time being, therein requiring him to pay out of the public treasury the full value of the said negro or slave, to the owner thereof, who is hereby required to pay the same accordingly. And in case any negro or slave shall be killed, pursuant to any powers given by this Act, the owner thereof, making his complaint to the Governor of this Province, or to any one of the lords proprietors's deputies, or to any two justices of the peace, it shall be lawful for them, or any of them, to issue out their warrant to any three indifferent freeholders or merchants, to make inquiry of the true value of the said negro or slave so killed, and to make return thereof, upon their oaths. And a certificate thereof being made by the Governor, or the said lords's deputies, or the said two justices of the peace, to the public receiver, and therein requiring him to pay out of the public treasury the full value of the said negro or slave, to the owner thereof, he, the said public receiver, is hereby required and commanded to pay the same accordingly. And if the treasurer for the time being, (having sufficient in his hands,) shall fail to make satisfaction and payment to such master or owner of any negro or other slave, he having a certificate and order for the same, as aforesaid, the party injured shall have an action of debt upon such certificate as aforesaid, against the public receiver, in any court of common pleas in this Province.

XVII. *And be it further enacted* by the authority aforesaid, That if any negro or slave whatsoever, shall offer any violence to any christian or white person, by striking, or the like, such negro or other slave, for his or

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her first offence, by information given, upon oath, to the next justice, shall be severely whipped, or caused to be whipped, by the constable, who is hereby required to do the same, under the penalty of forty shillings, by order of any justice of the peace; for the second offence of that nature, by order of the justice of the peace, he shall be severely whipped, and his nose slit, or be burned in some part of his face with a hot iron, that the mark thereof may remain; and for the third offence, be left to two justices and three freeholders, to inflict death, or any other punishment, according to their discretion; and any judgment given after the first judgment, shall be sufficient conviction to bring the offenders within the penalty for the second offence, and after the second, within the penalty of the third offence. And in case any negro or slave shall so assault and beat any white person, by which the said white person is maimed and disabled, in such case, the slave shall be punished as in the third offence, for offering violence to any white person, by striking, or the like, is appointed; *Provided always*, that such striking, conflict or maiming, be not by command of, or in the lawful defence of, their master, mistress, or owner of their families, or of their goods.

XVIII. *And be it further enacted* by the authority aforesaid, That any two justices of the peace, who, together with three freeholders, pursuant to the powers given them by this Act, shall try any negro or slave, shall fairly write, or cause to be written, the proceedings and judgment, either of acquittal or condemnation, and the execution, and all other matters relating to the same, and return the same, under their hands and seals, to the clerk of the crown or assize, there to remain as a record of such their proceedings; and any single justice of the peace, who, pursuant to the powers given him by this Act, shall hear and determine any complaint, and give judgment against any negro, in any case where a greater punishment is by this Act inflicted for the next offence, that in any such case, he, the said justice, shall make a record of such his proceedings, and return the same to the clerk of the crown or assize, there to be kept as a record as aforesaid, upon the penalty of the forfeiture of forty shillings for every neglect of the justice of the peace, to be disposed of and recovered as hereafter is directed.

XIX. *And be it further enacted* by the authority aforesaid, That every slave of above sixteen years of age, that shall run away from his master, mistress or overseer, and shall so continue for the space of twenty days at one time, shall, by his master, mistress, overseer or head of the family's procurement, for the first offence, be publicly and severely whipped, not exceeding forty lashes; and in case the master, mistress, overseer, or head of the family, shall neglect to inflict such punishment of whipping, upon any negro or slave that shall so run away, for the space of ten days, upon complaint made thereof, within one month, by any person whatsoever, to any justice of the peace, the said justice of the peace shall, by his warrant directed to the constable, order the said negro or slave to be publicly and severely whipped, the charges of such whipping, not exceeding twenty shillings, to be borne by the person neglecting to have such runaway negro whipped, as before directed by this Act. And in case such negro or slave shall run away a second time, and shall so continue for the space of twenty days, he or she, so offending, shall be branded with the letter R, on the right cheek. And in case the master, mistress, overseer, or head of the family, shall neglect to inflict the punishment upon such slave running away the second time, the person so neglecting shall forfeit the sum of ten pounds, and upon any complaint made by any person, within one month,

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to any justice of the peace, of the neglect of so punishing any slave for running away the second time, such justice shall order the constable to inflict the same punishment upon such slave, or cause the same to be done, the charges thereof, not exceeding thirty shillings, to be borne by the person neglecting to have the punishment inflicted. And in case such negro or slave shall run away the third time, and shall so continue for the space of thirty days, he or she, so offending, for the third offence, shall be severely whipped, not exceeding forty lashes, and shall have one of his ears cut off; and in case the master, mistress, overseer or head of the family, shall neglect to inflict the punishment upon such slave running away the third time, the person so neglecting shall forfeit the sum of twenty pounds, and upon any complaint made by any person, within two months, to any justice of the peace, of the neglect of the so punishing any slave for running away the third time, the said justice shall order the constable to inflict the same punishment upon such slave, or cause the same to be done, the charges thereof, not exceeding forty shillings, to be borne by the person neglecting to have the punishment inflicted. And in case such male negro or slave shall run away the fourth time, and shall so continue for the space of thirty days, he, so offending, for the fourth offence, by order or procurement of the master, mistress, overseer or head of the family, shall be gelt; and in case the negro or slave that shall be gelt, shall die, by reason of his gelding, and without any neglect of the person that shall order the same, the owner of the negro or slave so dying, shall be paid for him, out of the public treasury. And if a female slave shall run away the fourth time, then she shall, by order of her master, mistress or overseer, be severely whipped, and be branded on the left cheek with the letter R, and her left ear cut off. And if the owner, if in this Province, or in case of his absence, if his agent, factor or attorney, that hath the charge of the negro or slave, by this Act required to be gelt, whipped, branded and the ear cut off, for the fourth time of running away, shall neglect to have the same done and executed, accordingly as the same is ordered by this Act, for the space of twenty days after such slave is in his or their custody, that then such owner shall loose his property to the said slave, to him or them that will sue for the same, by information, at any time within six months, in the court of common pleas in this Province. And every person who shall so recover a slave by information, for the reasons aforesaid, shall, within twenty days after such recovery, inflict such punishment upon such slave as his former owner or head of a family ought to have done, and for neglect of which he lost his property to the said slave, or for neglect thereof shall forfeit fifty pounds; and in case any negro slave so recovered by information, and gelt, shall die, in such case, the slave so dying shall not be paid for out of the public treasury. And in case any negro or slave shall run away the fifth time, and shall so continue by the space of thirty days at one time, such slave shall be tried before two justices of the peace and three freeholders, as before directed by this Act in case of murder, and being by them declared guilty of the offence, it shall be lawful for them to order the cord of one of the slave's legs to be cut off above the heel, or else to pronounce sentence of death upon the slave, at the discretion of the said justices; and any judgment given after the first offence, shall be sufficient conviction to bring the offenders within the penalty for the second offence; and after the second, within the penalty of the third; and so for the inflicting the rest of the punishments.

XX. *And be it further enacted* by the authority aforesaid, That all such

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persons as shall apprehend and take up any runaway slave, and shall bring the runaway to his and their proper owner, if they know them, shall receive ten shillings for such slave, and one ryal per mile for the first eight miles, and six pence per mile for every mile more, provided it exceed not forty shilling in the whole, for mileage; but if they know not the owner or master of such runaway, then they shall bring them to the marshal or goaler, upon pain and forfeiture, for every day he or they shall keep such slave or slaves above ten days besides the days reasonable to be allowed for the journey, according to the distance of the place, he or they shall forfeit, for every slave so kept, for each day, twenty shillings. And any person delivering a runaway or fugitive slave to the marshal, shall, by oath, made before some justice of the peace, give an account of his name and place of abode, with the time when, and place where, he apprehended such fugitive slave or slaves, and that he knew of no ticket the slave had, nor the owner of such negro or slave, to the intent that all owners of slaves may come to the right knowledge when their slaves were apprehended, and by whom, and whether they might be wrongfully taken up or not; that upon such oath being made, and the delivery of the slave or slaves, the provost marshal shall enter such oath fairly in a book for that purpose, and shall also fix the same upon some public place of the goal, upon the penalty of five pounds; and the marshal shall sign a receipt for such slave or slaves, and shall also pay, or cause to be paid, to the person or persons that brings such slave or slaves, the sum of ten shillings for each slave, and also the mileage, as before directed by this Act in case the slave was brought to his owner; and in case the marshal shall refuse to pay the same, upon complaint made to any justice of the peace, the said justice, upon hearing the said complaint, is hereby authorized and required to direct his warrant to any constable, to cause the sum due, as aforesaid, to be immediately levied upon the goods and chattels of the marshal or goaler, and the goods to be publicly sold by outcry, and satisfaction to be made to the party grieved, returning the overplus, if any, after reasonable fees and charges deducted, to the marshal or goaler.

XXI. *And be it further enacted* by the authority aforesaid, That it shall and may be lawful for the marshal or goaler to detain and keep in custody the bodies of all such runaway slaves, until the owner of them, or their assigns, shall pay unto him the full sum of what he so paid for them, with one shilling in the pound for laying out the money, and so proportionably for a greater or lesser sum, and also one ryal for every twenty four hours the said slave hath been in his custody; and if the marshal or goaler shall willingly or negligently suffer any slave to escape, or by any ways or means to be let out of his custody, before he be duly delivered to the owner or his assigns, and a receipt of the person to whom delivered, wherein shall be inserted the mark or description of the slave delivered, then the said marshal or goaler shall forfeit to the owner, ten pounds, and the full value of the slave or slaves so escaping, or being out of the marshal's custody, as aforesaid, the same being first appraised by any three freeholders, who shall be required to appraise the same by warrant or order of the Governor, or any two justices of the peace; the same to be recovered by action of debt, in the court of common pleas in this Province, brought within six months after such escape. But upon recovery obtained by any person, against the marshal, for any slave or slaves so escaped, and the judgment satisfied and paid, the owner of such slave shall be obliged to assign unto

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the marshal, all his right, title and interest to the slave or slaves so escaped, and paid for by the marshal, as aforesaid.

XXII. *And be it further enacted* by the authority aforesaid, That no person whatsoever, except the marshal or goaler, shall keep any runaway slave above the aforesaid time of ten days; nor shall the marshal or goaler employ, or suffer to be employed, any slave or slaves in his custody, nor suffer him or them to want sufficient food and water, on the penalty of five pounds for every such offence; and if any marshal or goaler shall suffer any slave in his custody to die for want of food or water, or dry and convenient lodging, the marshal, goaler, or any other person in whose custody the slave was, shall pay the master or owner the full value such slave shall be appraised at by any three freeholders, who shall be required to appraise the same, by warrant or order from the Governor, or any two justices of the peace; the said value, according to such appraisement, to be recovered by action of debt, in the court of common pleas in this Province, brought at any time within six months after the death of the negro or slave.

XXIII. *And be it further enacted* by the authority aforesaid, That the marshal or goaler shall give an account, in writing, at every general sessions that shall be held within this Province, of what slaves he hath in prison, with their marks and names and sex, and the time they have been in his custody, and, as near as he can learn, how long each slave hath been from his respective owner, on the penalty of thirty pounds for every neglect.

XXIV. *And be it further enacted* by the authority aforesaid, That every captain or commander of a company within this Province, shall be, and is hereby, impowered, on notice to him given of the haunt, residence or hiding place of any runaway slaves, to raise a convenient party of men, not exceeding twenty, with special order from the general, or lieutenant general, and with them to pursue, apprehend and take the said runaway slaves, either alive or dead; any captain or commander who shall neglect his or their duty therein, shall forfeit the sum of thirty pounds; and for every negro or other slave that they shall take, having been run away above six months from his master, they shall receive forty shillings; and for every negro or other slave that they shall take alive, having been run away above twelve months, four pounds, from the masters or owners of the said negro or other slave; and if killed, they shall receive forty shillings from the public.

XXV. *And be it further enacted* by the authority aforesaid, That in case any person or persons whatsoever, shall happen to be maimed, wounded or disabled, either in pursuit, attacking or taking any runaway negro or slave, that then it shall and may be lawful, after the said person's making it appear, by his own oath, or otherwise, to two justices of the peace and three freeholders, for them to adjudge and determine what shall be allowed to the person or persons so disabled, and by virtue of a warrant, under their hands and seals, directed to the public receiver, such sum or sums of money as they shall direct for the said person or persons relief, and the public receiver is hereby required to pay the same accordingly.

XXVI. *And be it further enacted* by the authority aforesaid, That every Indian or slave which shall take up any runaway slave, as aforesaid, and the same shall deliver to the owner or master of the slave, if known, or if not known, then to the marshal, he shall have twenty shillings given him by the owner or master of the said slave, or by the marshal.

XXVII. *And be it further enacted* by the authority aforesaid, That in

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case any negro or other slave shall harbour, conceal, entertain and give victuals to any runaway slave, knowing him or her to be such, that upon complaint made thereof to any justice of the peace, such negro or slave, by order of the justice, shall be severely whipped, not exceeding forty lashes.

XXVIII. And *whereas*, several owners of slaves used to suffer their said slaves to do what and go whither they will, and work where they please, upon condition that their said slaves do bring their aforesaid masters so much money as between the said master and slave is agreed upon, for every day the said slave shall be so permitted to imploy himself, which practice hath been observed to occasion such slaves to spend their time aforesaid, in looking for opportunities to steal, in order to raise money to pay their masters, as well as to maintain themselves, and other slaves, their companions, in drunkenness and other evil courses; for the prevention whereof, *Be it enacted* by the authority aforesaid, That no owner or master or mistress of any family, after the ratification of this Act, shall suffer or permit any slave to do what, go whither, or work where, they please, upon condition aforesaid, under the penalty of the forfeiture of five shillings for every day he, she or they shall suffer any slave to do as aforesaid; *Provided nevertheless*, that nothing in this Act shall be construed or intended to hinder any person from letting their negroes or slaves to hire, by the year, or for any lesser time, or by the day, so as such negro or slave is under the care and direction of his master, or some other person by his order intrusted with the slave, and that the master is to receive the whole of what the slave shall earn.

XXIX. And *be it further enacted* by the authority aforesaid, That no person whatsoever, after the ratification of this Act, shall settle or manage any plantation, cow-pen or stock, that shall be six miles distant from his usual place of abode, and wherein six negroes or slaves shall be imployed, without one or more white persons living and residing upon the same plantation, upon the penalty or forfeiture of forty shillings for each month so offending.

XXX. And *be it further enacted* by the authority aforesaid, That if any negro or other slave, under punishment by his master, or his order, for running away, or any other crimes or misdemeanors towards his said master, unfortunately shall suffer in life or member, which seldom happens, no person whatsoever shall be liable to any penalty therefor. But if any person shall, of wantonness, or only of bloody-mindedness, or cruel intention, violently kill a negro or other slave of his own, he shall pay into the public treasury fifty pounds, current money; but if he shall so kill the slave of another man, he shall pay to the owner of the negro or slave, the full value, and into the public treasury, twenty-five pounds, but not be liable to any other punishment or forfeiture for the same. But if the person so offending be a servant, he or she shall receive, on his or her bare back, nine and thirty lashes, by order of any two justices of the peace before whom the matter shall be proved, and shall also suffer three months imprisonment, without bail or mainprize; which said time of three months that he is imprisoned, he shall serve with his master or mistress, after the expiration of his time, and shall be further liable to serve the owner or owners of such slave so killed, the full term of four years, by order of the said justices of the peace. But if any person shall kill any other person's negro or slave by accident, he shall not be liable to any other penalty but the owner's action at law; but if any person shall find any negro or other

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slave stealing, the said slave making resistance and refusing to submit himself, it shall and may be lawful for such person to kill the said negro or slave, and he shall not be hable to any damage or action for the same ; any law, custom or usage to the contrary notwithstanding.

XXXI. *And be it further enacted* by the authority aforesaid, That all the fines and forfeitures mentioned in this Act, not exceeding the sum of forty shillings, and not before particularly disposed of, nor the manner of the recovery directed by this Act, nor the time for the commencing the suit for the same, shall be recovered, prosecuted, adjudged, levied and distrained, by warrant from any one justice of the peace in this Province, as in the Act for the trial of small and mean causes is directed ; and the same being so recovered, the one half shall be paid to the church-wardens or the overseers of the poor, for the use of the poor of the parish where the person inhabits against whom the forfeiture is recovered, and the other half to him that will prosecute for the same, at any time within one month. And all the fines and forfeitures mentioned in this Act, exceeding the sum of forty shillings, and not before particularly disposed of, nor the manner of the recovery directed by this Act, nor the time for the commencing the suit for the same, one half thereof shall be and belong to his Excellency the Pallatine, and the rest of the true and absolute lords and proprietors of this Province, to and for the maintenance and support of the government of this Province, and the contingent charges thereof, the same to be paid to the public receiver of this Province, for the time being, to be disposed of by ordinance of the General Assembly of this Province, and the other half to him or them that will sue for the same, at any time within six months after the offence committed, by action of debt, suit, bill, plaint or information, in any court of record in this Province, wherein no essoign, protection, privilege, injunction, wager of law, or stay of prosecution, by *non vult ulterius prosecui*, or otherwise, shall be admitted or allowed.

XXXII. *And be it further enacted* by the authority aforesaid, That if any action, plaint, suit or information shall be commenced or prosecuted against any person or persons, for what he or they shall do in performance or execution of this Act, such person or persons so sued may plead the general issue, not guilty, and upon issue joined, give this Act and the special matter in evidence ; and if the plaintiff or prosecutor shall become non-suit, or suffer discontinuance, or if a verdict pass against him, the defendant or defendants shall recover his or their treble costs, for which he or they shall have the like remedy as in any case where costs by law are given to the defendant.

XXXIII. To the intent this Act and every clause and branch thereof, may receive full execution, and no person plead ignorance therein, *Be it enacted* by the authority aforesaid, That this Act be read and published by the clerk of the common pleas, at the next court of common pleas after the ratification of this Act, as also by the clerk of the crown, or clerk of assize, at the next general sessions, and also at the head of every company, by order of each respective captain or commander of his company, at his first muster after the ratification of this Act, on penalty of five pounds for each default, to be recovered and disposed of as aforesaid.

XXXIV. Since charity, and the christian religion, which we profess, obliges us to wish well to the souls of all men, and that religion may not be made a pretence to alter any man's property and right, and that no person may neglect to baptize their negroes or slaves, or suffer them to be baptized, for fear that thereby they should be manumitted and set free, *Be*

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it therefore enacted by the authority aforesaid, that it shall be, and is hereby declared, lawful for any negro or Indian slave, or any other slave or slaves whatsoever, to receive and profess the christian faith, and be thereinto baptized; but that notwithstanding such slave or slaves shall receive and profess the christian religion, and be baptized, he or they shall not thereby be manumitted or set free," or his or their owner, master or mistress lose his or their civil right, property and authority over such slave or slaves, but that the slave or slaves, with respect to his servitude, shall remain and continue in the same state and condition that he or they was in before the making of this Act.

XXXV. *And be it further enacted* by the authority aforesaid, That one Act of Assembly of this Province, entitled "An Act for the better ordering of slaves," ratified in open Assembly, the twenty-eighth day of August, 1701, and every clause, article, sentence, word, matter or thing contained in the same Act, be from henceforth repealed, annulled, revoked, and forever made void, to all intents and purposes whatsoever.

*Read three times, and Ratified in open Assembly,
the seventh day of June, Anno Domini 1712.*

THOS. BROUGHTON.
RICH'D. BERESFORD.
SAM. EVELEIGH.
CHARLES CRAVEN.
CHARLES HART.
ARTHUR MIDDLETON.

AN ADDITIONAL ACT TO AN ACT ENTITLED "AN ACT FOR THE BET- No 344.
TER ORDERING AND GOVERNING NEGROES AND ALL OTHER SLAVES."

WHEREAS, by An Act duly ratified in open Assembly the seventh day of June, 1712, entitled "An Act for the better ordering and governing of negroes and all other slaves," amongst other things, it is enacted and provided, that in capital crimes or other great misdemeanors or offences, the slave or slaves accused shall be tried by two justices of the peace and three freeholders, but there is no provision made that a quorum of them shall execute the powers granted to them therein, whereby justice hath been obstructed and delayed; for the prevention of which for the future,

I. *Be it enacted*, by his Excellency, the Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown, for the South-west part of this Province, and by the authority of the same, That two of the said justices and one of the said freeholders, or one of the said justices and two of the said freeholders, (who shall all live near adjacent to the habitation of the owner of every such slave,) agreeing as to the guilt of the person or persons, and the sentence to be passed upon him or them, or as to his or their acquittal, shall be as effectual or good in law as if they had all unanimously agreed; and they so agreeing, are hereby appointed a quorum, and are hereby authorized and empowered to execute all the powers granted in the aforesaid

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Act to the said two justices and three freeholders, as fully and amply, to all intents and purposes, as if they had all agreed in the judgment; any thing in the aforesaid Act to the contrary thereof in any wise notwithstanding.

II. *And be it further enacted* by the authority aforesaid, That one justice of the peace and two freeholders shall have power to associate themselves, to try and pass sentence upon any slave or slaves guilty of any misdemeanor or which amounts not to a capital crime; any thing in this, or any other Act, to the contrary in any wise notwithstanding.

III. *And be it further enacted* by the authority aforesaid, That when any slave or slaves shall be taken and brought to the marshall, he giving notice in writing, by sending up the names, ages and sexes, to the several parish churches, and the most notorious marks belonging to such slave or slaves then in his custody, that then, and in such cases, if such slave or slaves die in prison by negligence of the owners thereof, that the marshall shall and may have his action at common law, against the owner or owners of such slave or slaves, for the keeping and maintaining of them, and recovering of his just debts.

IV. *And whereas*, the public treasury hath been very much exhausted by the extraordinary sums that have been allowed for criminal slaves of all sorts, without distinction; for the prevention of which for the future, *Be it further enacted* by the authority aforesaid, That in all cases where any slave or slaves is or shall be condemned to die, that the justices and freeholders, or a quorum of them, that shall condemn such slave or slaves, shall, in the valuing every such slave, not exceed fifty pounds, which sum allowed for any such slave as aforesaid, shall be paid to the owner thereof, his or her executors, administrators or assigns.

V. *And whereas*, it has been found by experience, that the executing of several negroes for felonies of a smaller nature, by which they have been condemned to die, have been of great charge and expense to the public, and will continue (if some remedy be not found,) to be very chargeable and burthensome to this Province; *Be it therefore enacted* by the authority aforesaid, That all negroes or other slaves who shall be convicted and found guilty of any capital crime, (murder excepted,) for which they used to receive sentence of death, as the law directs, shall be transported from this Province, by the public receiver for the time being, to any other of his Majesty's plantations, or other foreign part, where he shall think fitting to send them for the use of the public; and the said slave or slaves shall be appraised as the law directs, by the justices and freeholders, or a quorum of them, and the value of the said slave or slaves so appraised shall be paid to the master or owner thereof, out of the public treasury, and the public receiver for the time being is hereby empowered and required to pay the same.

VI. *And because* in the Act aforesaid no sufficient punishment hath been provided for any slave or slaves striking, beating or maiming their masters, mistresses, overseers, or any other white person, to the emboldening of them frequently to commit the aforesaid crimes; therefore, that they may forever be deterred from the same, *Be it further enacted* by the authority aforesaid, That any slave or slaves that shall strike, beat or maim their respective masters, mistresses or overseers, (being white persons,) or any other white person, except it be in the immediate defence of their masters, mistresses, overseers or any other white person, shall be deemed a criminal, and his or their offences adjudged criminal, and shall be

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tried and proceeded against as other criminal slaves, and the punishment to be inflicted by virtue of this clause to be left to the judges in such criminal cases; and for want of evidence sufficient to prove the aforesaid facts, the oath of any white person so struck or maimed, shall be sufficient to convict or condemn such slave or slaves, if the said white person's oath be deemed credible and valid by the judges that shall try the same; any thing in this, or any other Act, to the contrary notwithstanding.

VII. And *whereas*, notwithstanding the laws in that case made and provided, persons are not sufficiently deterred from dealing with slaves, which doth encourage them to steal from their masters, because there are such evil persons as will buy such stolen goods of them; for the effectual prevention of which for the future, *Be it further enacted* by the authority aforesaid, That all persons that shall deal with any slave or slaves, for above the value of five shillings, without a license or ticket from his master, mistress or overseer, and contrary to the true intent and meaning of the laws in that case provided, may either be prosecuted for the fines and forfeitures given by law in that case, or may be prosecuted and indicted as accessory to felony in receiving such goods, which are hereby adjudged to be stolen; *Provided*, such information given, in order to have the person charged as accessory to felony, be made in three months after the offence committed and discovered, and be prosecuted to effect at the next general sessions; but no person to be punished twice for the same offence, by recovering the fines and forfeitures, and also by being prosecuted as accessory to felony; any thing in this Act, or in any other Act or law, to the contrary hereof in any wise notwithstanding.

VIII. And *be it further enacted* by the authority aforesaid, That if any negro or slave shall inform any justice of the peace of any stolen goods sold to any white person by any negro or slave, and if upon search, by virtue of a warrant from the said justice, the said goods shall be found and proved to be so stolen, the said negro or slave so informing, shall receive from the person offending, the sum of two pounds, over and above the penalty by law appointed; any thing in this or any other law to the contrary notwithstanding.

IX. And *whereas*, the number of negroes do extremely increase in this Province, and through the afflicting providence of God, the white persons do not proportionably multiply, by reason whereof, the safety of the said Province is greatly endangered; for the prevention of which for the future, *Be it further enacted* by the authority aforesaid, That all negro slaves from twelve years old and upwards, imported into this part of this Province from any part of Africa, shall pay such additional duties as is hereafter named, that is to say:—that every merchant or other person whatsoever, who shall, six months after the ratification of this Act, import any negro slaves as aforesaid, shall, for every such slave, pay unto the public receiver for the time being, (within thirty days after such importation,) the sum of two pounds current money of this Province.

X. And *be it further enacted* by the authority aforesaid, That every master and commander of any vessel, merchants, or others importing negroes as aforesaid, are and shall be liable and subject to the several oaths, entries, allowances, exemptions, drawbacks, restrictions, limitations, fines, forfeitures and penalties, as by any other Act now in force in this Province for importing the said negroes he was subject and liable to before the making of this Act; any thing herein, or in any other Act, to the contrary notwithstanding.

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XI. *And be it further enacted* by the authority aforesaid, That no person whatsoever, after the first day of March next, shall suffer or allow any of his or their slaves to plant for themselves any corn, peas or rice, or to keep for themselves any stock of hogs, cattle or horses, under the penalty of twenty pounds current money of this Province, for every slave so suffered or allowed to plant any corn, peas or rice, or to keep any of such stock, as aforesaid; the said penalty to be recovered by bill, plaint or information, in any court of record in this Province, the one half to be paid to him or them who will inform and sue for the same, and the other half to the public receiver, for the use of the public.

*Read three times, and Ratified in open Assembly,
this 18th day December, 1714.*

CHARLES CRAVEN,
CHARLES HART,
RALPH IZARD,
HUGH BUTLER,
SAMUEL EVELEIGH,
ROBT. DANIELL.

No. 388. A FURTHER ADDITIONAL ACT TO AN ACT ENTITLED AN ACT FOR THE BETTER ORDERING AND GOVERNING OF NEGROES AND ALL OTHER SLAVES; AND TO AN ADDITIONAL ACT TO AN ACT ENTITLED AN ACT FOR THE BETTER ORDERING AND GOVERNING OF NEGROES AND ALL OTHER SLAVES.

WHEREAS, by an Act duly ratified in open Assembly the seventh day of June, 1712, entitled "An Act for the better ordering and governing of negroes and all other slaves," amongst other things, it is enacted, that in all cases whatsoever, where any negro or other slave, by the appointment and provision of the said Act, shall suffer death, then all such justices and freeholders who adjudged such negro or other slave to suffer death, immediately after sentence thereof given, shall enquire, by the best means they are able, of the full and true value of such negro or slave, and make certificate thereof to the public receiver for the time being, therein requiring him to pay, out of the public treasury, the full value of the said negro or slave, to the owner thereof, who is thereby required to pay the same accordingly; and in case any negro or slave shall be killed, pursuant to any powers given them by this Act, the owner thereof making his complaint to the Governor of this Province, or to any one of the lords proprietors's deputies, or to any two justices of the peace, it shall be lawful for them, or any of them, to issue out their warrants to any three indifferent freeholders or merchants, to make true enquiry of the true value of the said negro or slave so killed, and to make return thereof upon oath, and a certificate thereof being made by the Governor, or the lords proprietors's deputies, or the said two justices of the peace, to the public receiver, and thereby requiring him to pay out of the public treasury the full value of the said negro or slave to the owner thereof, the said public receiver is

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thereby required to pay the same accordingly; and *whereas*, by one other Act of Assembly, entitled “An additional Act to an Act entitled An Act for the better ordering and governing of negroes and all other slaves,” ratified in open Assembly the eighteenth day of December, one thousand seven hundred and fourteen, amongst other things therein contained, it is enacted, that in all cases where any slave or slaves is or shall be condemned to die, that the justices and freeholders, or a quorum of them, that shall condemn such slave or slaves, shall, in the valuing every such slave or slaves, not exceed fifty pounds, which sum allowed for any such slave as aforesaid shall be paid to the owner thereof, his or her executors, administrators or assigns; now *whereas*, the public treasury hath been very much exhausted by the extraordinary sums of money that have been paid for criminal slaves of all sorts without distinction; for remedy of which for the future,

I. *Be it enacted*, by his Excellency, John, Lord Craven, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province of Carolina, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown, for the South-west part of the said Province, and by the authority of the same, That in all cases where any order or certificate shall be given by any justices of the peace and freeholders, for the value of slaves condemned to die, (murder excepted, for which nothing shall be allowed,) or by the Governor of this Province, or the lords proprietors’s deputies, or two justices of the peace, for the value of slaves killed, according to the directions of the said Act, such order or certificate shall be directed to the constable of the parish where such negro or slave that was condemned or killed, did commit the fact, to levy the full value of the said negro, as he shall be appraised by the said justices and freeholders, on all and singular the inhabitants of such parish where the fact was committed, possessing negroes or other slaves, by an assessment which shall be equally laid on the owners or possessors of negroes or slaves, by the said two justices and freeholders, or the major part of them, to be rated at so much per head, and so for a greater or lesser number; and if any person whatsoever, that is an owner or possessor of slaves, shall refuse to pay the sum assessed on him, to the constable aforesaid, then it shall be lawful for such constable to distrain on the goods or chattels of such person so refusing; and after the constable has kept such distress three days, he shall publicly sell the same to the highest bidder; and if any overplus remains, after all necessary charges deducted, he shall return the same to the owner from whom such distress was taken; and the said sum so collected, levied and received by any constable, according to the directions aforesaid, shall be paid to the owner of such slave so executed or killed, or to his executors, administrators or assigns; any thing in the before recited Acts, or in any other law, custom or usage, to the contrary thereof in any wise notwithstanding.

II. And *whereas*, it is enacted by the above recited Act, entitled “An additional Act to An Act for the better ordering and governing of negroes and all other slaves,” that all negroes or other slaves who shall be convicted and found guilty of any capital crime, (murder excepted,) for which they used to receive sentence of death as the law directs, shall be transported from this Province, by the public receiver for the time being, to any other of his Majesty’s plantations, or other foreign parts, where he shall think fitting to send them for the use of the public; and the said slave or slave shall be appraised as the law directs, by the justices and freeholders, or a quorum

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of them, and the value of the said slave or slaves so appraised shall be paid to the master or owner thereof, out of the public treasury; now *whereas*, it has proved by experience, that this has encouraged negroes and other slaves to commit great numbers of robberies, burglaries and other felonies, well knowing they were to suffer no other punishment for their crimes, but transportation, which to them was rather an encouragement to pursue their villanies; *Be it therefore enacted* by the authority aforesaid, That the said paragraph, and every thing therein contained, be hereby repealed, made null and utterly void forever; any thing in the afore recited Act contained to the contrary notwithstanding; and the former method of proceeding against such criminal slaves, prescribed by the above recited Act for the better ordering and governing of negroes and slaves, of the seventh of June 1712, be hereby revived and in full force; any thing in the said additional Act of the 18th of December, 1714, to the contrary thereof notwithstanding.

III. And *whereas*, the great importation of negroes to this Province, in proportion to the white inhabitants of the same, whereby the future safety of this Province will be greatly endangered; for the prevention whereof, *Be it enacted* by the authority aforesaid, That all negro slaves of any age or condition whatsoever, imported or otherwise brought into this Province, from any part of the world, shall pay such additional duties as is hereafter named, that is to say:—that every merchant or other person whatsoever, who shall, eighteen months after the ratification of this Act, import any negro slave as aforesaid, shall, for every such slave, pay unto the public receiver for the time being, at the time of each importation, over and above all the duties already charged on negroes, by any law in force in this Province, the additional sum of forty pounds current money of this Province; and the master or commander of any ship or vessel, merchant or others, importing negroes as aforesaid, are and shall be liable and subject to the several oaths, entries, allowances, exemptions, drawbacks, restrictions, limitations, fines, forfeitures and penalties, as by any other Act now in force in this Province for importing the said negroes, he was subject and liable to before the making of this Act.

IV. *And be it further enacted* by the authority aforesaid, That the former part of this Act relating to the execution of negroes and all other slaves, be and remain in full force for twelve months, and from thence to the end of the next session of the General Assembly, and no longer; and the latter part of the said Act, relating to the additional duty on negroes, and every thing therein contained, shall continue to be and remain in full force for the term and space of four years, from the time of the ratification hereof, and from thence to the end of the next session of the General Assembly after, and no longer.

*Ratified in open Assembly, the eleventh day of December,
Anno Domini, 1717.*

ROBT. JOHNSON.
A. SKEENE,
NICHOLAS TROTT,
THOMAS BROUGHTON,
CHARLES HART,
FRANCIS YONGE,

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AN ACT FOR THE BETTER ORDERING AND GOVERNING OF NEGROES
AND OTHER SLAVES. No. 476.

WHEREAS, the plantations and estates of this Province cannot be well and sufficiently managed and brought into use, without the labor and service of negroes and other slaves; and forasmuch as the said negroes and other slaves, brought unto the people of this Province for that purpose, are of barbarous, wild and savage natures, and such as render them wholly unqualified to be governed by the laws, customs and practices of England; but that it is absolutely necessary that such laws and orders should be made and enacted, for the good regulating and ordering of them, as may restrain the disorders, rapines and inhumanities to which they are naturally prone and inclined, and may also tend to the safety and security of the people of this Province and their estates; we therefore pray your most sacred Majesty that it may be enacted,

I. *And be it therefore enacted*, by his Excellency, Francis Nicholson, Esqr., Governor, by and with the advice and consent of his Majesty's Honorable council, and the Assembly of this Province, and by the authority of the same, That all negroes, mulattoes, mustizoes or Indians, which at any time heretofore have been sold, and now are held and taken to be, or hereafter shall be bought and sold for slaves, are hereby declared slaves; and they, and their children, are hereby made and declared slaves, to all intents and purposes; excepting all such negroes, mulattoes, mustizoes or Indians, which heretofore have been, or hereafter shall be, for some particular merit, made and declared free, either by the Governor and council of this Province, pursuant to any Act or law of this Province, or by their respective owners or masters; and also excepting all such negroes, mulattoes, mustizoes or Indians, which can prove that they ought not to be sold for slaves; and in case any negro, mulattoe, mustizo or Indian, doth lay claim to his or her freedom, upon all or any of the said Acts, or otherwise, the same shall be finally heard and determined by the judges and justices of the general court in Charles city, if the dispute arises within the jurisdiction thereof, and the justices of the several county and precinct courts, in open court within their jurisdiction, and not elsewhere.

II. And for the better ordering and governing of negroes and all other slaves in this Province; *Be it enacted* by the authority aforesaid, That no master, mistress, overseer, or other person whatsoever, that hath the care or charge of any negro or slave, shall give their negroes or other slaves leave on Sundays, fast-days, holydays, or any other time, to go out of the plantations, without a letter or ticket, except such negro or other slave as wear a livery; and every person who shall see any negro or slave out of his master's plantation without a ticket or leave in writing from his master or mistress, or some other person by his or her appointment, or some white person in the company of such slave to give an account of his business, except as aforesaid, are empowered to correct such slave by whipping, not exceeding twenty lashes; and every overseer of a plantation, which shall not, (when in his power,) apprehend every strange negro or other slave, which he shall find in his master's or mistress's plantation, without leave as aforesaid, except as before excepted, and after apprehended shall neglect to punish him by whipping as aforesaid, shall forfeit twenty shillings; the one half to the poor, to paid to the church wardens of the parish where such forfeit shall become due, and the other half to him that will inform for the same within one week after such neglect; *Provided always nevertheless*, that every master, mistress or overseer, shall and may have liberty

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to whip any strange negro or other slave coming to his plantation with a ticket, on Sundays, fast-days, holydays, or any other times, unless it shall appear to them that the business or errand of the said slave was to the master or mistress of such plantation, and not to visit, idle, loiter or play with the other negroes; any thing before mentioned to the contrary thereof notwithstanding. And that no slave may make further or other use of any one ticket than was intended by him or her that granted the same, every ticket shall be dated, and particularly mention the name of every slave employed in the particular business, and to what place they are sent, and what time they are to return; and if any person shall presume to give any negro or slave a ticket in the name of his master or mistress, without his or her consent, such person so doing shall forfeit the sum of forty shillings; one half to the said poor, to be disposed of as aforesaid, the other half to the person injured, that will complain against the person offending within one week after the offence committed; and if he have not sufficient to pay the said forty shillings, any two justices of the peace shall have power to inflict corporal punishment on the offender, for the wilful counterfeiting such ticket, by ordering such offender to receive twenty lashes on the bare back; and for the better security of all such persons that shall endeavor to take any runaway, or shall examine any slave for his ticket, passing to and from his master's or mistress's plantation, it is hereby declared lawful for any white person to beat, maim or assault, and if such negro or slave cannot be otherwise taken, to kill him who shall refuse to show his ticket, or by running away or resistance, shall avoid being apprehended or taken.

III. *And it is further enacted* by the authority aforesaid, That every justice of the peace, in the county where he resides, shall have power, at all times when he sees fit, to go in person, or grant warrants to any constable or other persons whatsoever, to search for guns, pistoles, swords, cutlances, lances, and other offensive weapons, in negro houses, or in the custody or keeping of any negro or other slave, and the same to take away, unless such negro or other slave shall have a ticket or license in writing, under the hand of the master, mistress or manager, to hunt and kill game, cattle or vermin, and such license to be renewed once every month at farthest, or unless there be some white person in the company of such slave when he is a hunting or shooting; or unless such slave be actually carrying his master's arms to and from muster, or found carrying his master's arms to and from his plantation, by a special ticket for that purpose, expressing the reason therein; or unless such slave shall be found actually keeping off rice-birds and other birds, in the day time within the plantation, and lodging the same gun, at night, in their master's chief dwelling house; *Provided always nevertheless*, that no master, mistress or manager, shall license above one negro in one plantation for that purpose, except as before excepted, for keeping off birds in the day time, and lodging the same gun at night in their master's chief dwelling house: *Provided also*, that no negro or other slave shall have liberty to carry such gun abroad from home to hunt or shoot, between Saturday evening after sun set and Monday morning before sun rise, notwithstanding such license or ticket; *Provided also*, that no slave who shall be possessed of such gun, shall lend such gun to any other slave whatsoever; and every gun, pistole, sword, cutlance, or other offensive weapon, which shall be found in the hand or custody of any slave, not qualified to keep or carry the same, as aforesaid, shall be forfeited to the finders, who are hereby empowered to seize and keep the same to their own use, without further law or process.

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IV. *And be it further enacted* by the authority aforesaid, That if any slave so entrusted to keep a gun or cutlace, shall shoot or kill any other man's cattle, sheep or hogs, besides his master's, or lend it or suffer it to go out of his custody to any other slave, who shall do such like injuries, the master, mistress or manager of such slave so entrusted as aforesaid, shall forfeit and pay to the party injured, double the value of the cattle, hogs or sheep; to be recovered by warrant of any justice, if proved by his own confession, or by the oath of one white man, or two slaves, whom the justice shall have reason to believe speak truth; and the slave committing such offence shall suffer such corporal punishment besides, as hereinbefore is directed.

V. *And be it further enacted* by the authority aforesaid, That all patrols for the time being, shall have full power and authority for entering into any plantations, breaking open negro houses or other places where negroes may be suspected to keep arms; and the commanding officer of each respective company, that appoints the patrols, shall give instruction in writing, to the commanders that rides, how to behave themselves in their respective duty; and each person riding is hereby required strictly to observe the same, there to search, seize and carry away the same, apprehending and punishing runaways or other slaves which shall be found out of their master's plantations without a ticket, as hereinbefore is given to any justice of the peace, or other person whatsoever, by virtue of this Act; and also to correct such slave by moderate whipping, who shall affront or abuse them in the execution of their office; and if they shall have reason to suspect such slave to have been guilty of stealing or other criminal offences, to apprehend and take up such slaves, and carry them to the next magistrate, the master excepted, to be dealt with according to law; and all arms which shall be found in the possession of any slaves by the patrol as aforesaid, unless licensed or qualified as aforesaid, shall be forfeited to the patrol then patrolling, and equally divided amongst them.

VI. *And it is further enacted* by the authority aforesaid, That every master or head of any family shall keep all his guns and other arms, when out of use, in a room locked up, upon the penalty of being convicted of neglect therein, to forfeit three pounds.

VII. *And be it further enacted* by the authority aforesaid, That no owner or the head of any family, shall give a ticket to go to Charles city and port, or from plantation to plantation, on Sundays, excepting it be for and about such particular business as cannot reasonably be delayed to another time, under the forfeiture of twenty shillings, and in every ticket in that case given shall be mentioned the particular business that such slave is sent about, otherwise, such slave shall be dealt with as if he had no ticket.

VIII. *And be it further enacted* by the authority aforesaid, That upon complaint made to any justice of the peace, of any heinous or grievous crime committed by any slave or slaves, as murder, burglary, robbery, wilful burning of dwelling houses, barns, stables, kitchens, or stacks of rice, or tar kilns, barrels of pitch or tarr, or any other capital offences, where clergy is taken away by the laws of England or this Province, the justice or justices shall issue out his warrant for apprehending the offender or offenders, and for all persons to come before him that can give evidence; and if, upon examination, it probably appeareth that the apprehended person is guilty of any of the above mentioned crimes, which are

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hereby declared to be felony without benefit of clergy, he shall commit him or them to prison, or immediately proceed to try all of the slave or slaves, according to the form hereafter specified, and also to certify to the justice next to him the said cause, and to require him, by virtue of this Act, to associate himself to him, which said justice is hereby required so to do; and they so associated are to issue their summons to three sufficient freeholders, acquainting them with the matter, and appointing a day, hour and place, when and where the same shall be heard and determined; at which day, hour and place the said justices and freeholders shall cause the offenders and evidences to come before them; and if they, on hearing the matter, the said freeholders being by the said justices first sworn to judge uprightly and according to evidence, and diligently weighing and examining all evidences, proofs and testimonies, and in case they shall find such negro or other slave or slaves guilty thereof, they shall give sentence of death, and forthwith by their warrant cause immediate execution to be done, by the common or any other executioner, in such manner as they shall think fit; the kind of death to be inflicted to be left to their judgment and discretion.

IX. *And be it further enacted* by the authority aforesaid, That two justices and one freeholder, or one justice and two freeholders, or the said two justices and three freeholders, shall be a quorum, and the acquittal or conviction of any slave by such a quorum of them shall be final.

X. *And be it further enacted* by the authority aforesaid, That in case any negro or other slave shall be accused and convicted of any lesser crimes, before two justices and three freeholders, as stealing of any neat cattle, sheep, hogs, shotes or piggs, or killing any neat cattle, sheep or hogs, with a felonious intent to steal them, for the first offence such slave shall be branded with an R on the right cheek, with a red hot iron; for the second offence, if it appear to the justices that he has been before convicted, he shall be branded with an R on the left cheek, with a red hot iron, and whipped not exceeding forty lashes; and for the third offence, if he has been convicted of the second, he shall suffer death; and the master, mistress or owner of such slave, shall satisfy the full damage or loss of such cattle, sheep or hogs, to the owners thereof, to be recovered by warrant of any justice of peace, except for which such negro suffer death.

XI. *And be it further enacted* by the authority aforesaid, That every slave who shall be guilty of any felonious crime, not particularly named in this Act, where a white man is allowed the benefit of the clergy, and ought to be punished by burning in the hand, a slave shall be burned with the letter R in the forehead; and for the second offence, he shall suffer death, so that the first conviction do appear under the hands of a quorum of justices and freeholders, or filed of record with the clerk of the crown and peace, in Charles City, or in any of the county and precinct courts; *Provided nevertheless*, that the goods or chattels so stolen do exceed the value of forty shillings, current money.

XII. *And whereas*, negroes and other slaves, under pretence of hunger, do frequently break open corn-houses and rice-houses, and steal from thence corn and rice, and such offences have been deemed burglary; *Be it therefore enacted* by the authority aforesaid, That for the first offence of this kind, he shall not suffer death, but be punished with branding on the right cheek, and be whipped not exceeding thirty-nine lashes; for the second offence, he shall be branded on the left cheek, and be whipped not exceeding thirty-nine lashes; and for the third offence, he shall suffer death; any thing

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herein before contained to the contrary, notwithstanding. And the master, owner or manager of such slave, shall answer the full damage to the party injured, if proved by the slave's voluntary confession, or by two other, whom the justices shall have reason to believe speak truth; except for which such negro suffer death. And in case any slave shall be guilty of stealing of fowles, robbing of hen-roosts, or any other lesser crimes, not particularly named in this Act, he shall be tried by any one justice of the peace, and punished by whipping only, not exceeding forty lashes. And in case the said justices and freeholders, or any or either of them, shall neglect or refuse to perform the duty by this Act required of them, they shall, severally, for such their defaults, forfeit the sum of twenty-five pounds.

XIII. *And be it further enacted* by the authority aforesaid, That if any person shall send his negro or other slave off this Province, that hath killed another negro or slave, such person shall pay unto the master or owner of such negro, the full value of such negro so killed, as aforesaid. And in case any person shall send, or cause to be sent, his negro out of this Province, that hath killed any white person, knowing the negro to be guilty of such crime, he shall forfeit the sum of five hundred pounds.

XIV. *And be it further enacted* by the authority aforesaid, That if any negroes or other slaves shall make mutiny or insurrection, or rise in rebellion against the authority and government of this Province, or shall make preparation of arms, powder, bullets, or offensive weapons, in order to carry on such mutiny or insurrection, or shall hold any confederacy or conspiracy for raising such mutiny, insurrection or rebellion, the offenders shall be tried by two justices of the peace and three freeholders, associated together as before expressed in cases of murder, burglary, &c., who are hereby empowered and required to try the said slaves so offending, and inflict death or any other punishment upon the offenders, and forthwith, by their warrant, cause execution to be done by the common or any other executioner, in such manner as they shall think fitting; and if any person shall make away or conceal any negro or negroes, or other slave or slaves, suspected to be guilty of the last before mentioned crimes, and not, upon demand, bring forth the suspected offender or offenders, such person shall forfeit, for every negro or slave so concealed or made away, the sum of fifty pounds proclamation money; *provided nevertheless*, that when and as often as any of the before mentioned crimes shall be committed by more than one negro or slave that shall deserve death, that then, and in all such cases, if the justices of the peace and freeholders who shall try such slaves, or a quorum of them, shall think fitting, and accordingly shall order, that one or more of the said criminals should suffer death as exemplary, and the rest to be returned to the owners, that then the owners of the negroes so offending shall bear proportionably the loss of the said slave or slaves so put to death, as shall be allotted them by the said justices and freeholders; *provided nevertheless*, that the slave so to be put to death, shall not be valued at more than twenty-five pounds proclamation money; and if any person shall refuse his part so allotted him, that then, and in all such cases, the said justices and freeholders are hereby required to issue out their warrant of distress upon the goods and chattels of the person so refusing, and shall cause the same to be sold by public outcry, to satisfy the said money so allotted him to pay, and to return the overplus, if any be, to the owner, and the public shall not be charged therewith.

XV. *And be it further enacted* by the authority aforesaid, That the confession of any slave accused, or the testimony of any other slave, that the

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justices and freeholders shall reason to believe do speak truth, shall be held for good and convincing evidence, in all crimes not capital. But no negro or other slave shall suffer the loss of life or limb, but such as shall be convicted, either by their own free and voluntary confession, or by the oath of christian evidence, or at least by the plain and positive evidence of two negroes or slaves, so circumstantiated as that there shall not be sufficient reason to doubt the truth thereof, and examination being always made if the negroes or slaves that give evidence do not bear any malice to the other slave accused; excepting in the case of murder, in which case, the evidence of one slave, attended with such circumstances as that the justices and freeholders shall have no just reason to suspect the truth thereof, of which they are hereby made judges, or upon violent presumption of the accused person's guilt, the said justices and freeholders may declare the said person guilty, and may give sentence of death upon him accordingly, and award execution as before directed by this Act.

XVI. *Whereas*, divers evil and ill-disposed persons have heretofore attempted to steal away negroes or other slaves, by specious pretences of promising them their freedom in another country, against which pernicious practices no punishment suitable hath been yet provided; *Be it therefore enacted* by the authority aforesaid, That if any white person, either free-man or servant, at any time after the ratification of this Act, shall, directly or indirectly, tempt or persuade any negro or negroes, or other slave or slaves, to leave his or their master's or mistress's service, to whom they are slaves, out of intent or design to carry him, her or them off from this Province, such person shall forfeit and pay unto such master or mistress so grieved, the sum of twenty-five pounds, proclamation money, for every slave so attempted and persuaded; the said forfeiture to be sued for and recovered by action of debt, by the person grieved, that will sue for the same in any court of common pleas in this Province, at any time within six months after the offence committed; and in case the person shall not satisfy such judgment in ten days, the marshal shall make application to the next magistrate, who shall order the said offender to be publicly whipped, not exceeding forty lashes; but if any person shall so tempt or practice with any person's negro or negroes, or other slave or slaves, and him, her or them so attempted, actually convey away or send off from this Province, or be taken in the very act of taking or carrying him, her or them away, in order to carry him, her or them off from this Province, and shall, at the court of general sessions, assize or goal delivery, be legally convicted of the same, such offence is hereby declared felony, without benefit of the clergy, and the offender shall suffer death as a felon, accordingly.

XVII. *And be it further enacted* by the authority aforesaid, That in case any negro or slave shall run away from his master or mistress, with intent to go off from this Province, in order to deprive his master or mistress of his service, such negro or slave, being declared guilty of the same by two justices and three freeholders, as aforesaid, shall suffer death. And if several slaves be concerned in a gang together, in running away off the Province, and be re-taken, one, or two, at most, of them, who shall, in the opinion of the said justices and freeholders, be thought to be the most notorious offenders, shall suffer death, and the rest such corporal punishment as to the said justices and freeholders shall seem reasonable. And the owners of the negroes which shall be saved shall contribute proportionably, as aforesaid, to the loss of the negro or other slaves so executed; and if all the gang so taken shall belong to one person, he shall bear the loss himself. And in case any negro or slave shall be

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guilty of enticing or persuading any other negro or slave to run from their master's or mistress's service, in order to go off this Province, and being convicted of the same before two justices and three freeholders, he shall be severely whipped, not exceeding forty lashes, and shall also be branded in the forehead with a hot iron, that the mark thereof may remain.

XVIII. Now, forasmuch as the loss of the negroes and other slaves that suffer death, or be killed, under any authority given by this Act, would prove too heavy for the owners of them to bear, and that the owners of negroes and slaves may not be discouraged to detect and discover the offences of their negroes and slaves, and that the loss may be borne by the public, whose safety, by such punishments, is hereby provided for and intended, *Be it therefore enacted* by the authority aforesaid, That in all cases whatsoever, where any negro or other slave, by the appointment and provision of this Act, shall suffer death, then all such justices and freeholders who adjudged such negro or other slave to suffer death, immediately after sentence thereof given, shall inquire, by the best means they are able, of the full and true value of such negro or slave, and make certificate thereof to the judges and justices of the several counties or precincts in this Province, to which the said negro or slave shall belong, who shall assess any sum on the lands and negroes lying within their respective jurisdictions, not exceeding eighty pounds, current money. And the treasurers of such counties and precincts are hereby required to pay the same accordingly, to the owner thereof; excepting, nevertheless, such slaves who shall be tried and executed for running away, endeavoring to make their escape off this Province, the loss of which slaves shall be borne by the owners of such slave, or proportionably, as before is directed. And in case any negro or slave shall be killed, pursuant to any power given by this Act, the owner thereof, making his complaint thereof to the judges in Charles City and Port, in open court, or to the judges of any of the county or precinct courts, at the time of holding such courts, it shall be lawful for them to inquire into the truth thereof, and to assess any sum not exceeding eighty pounds, on the lands and negroes within their respective jurisdictions, and cause the said sum, when collected, to be paid to the owner of such negro or slave, so killed, as aforesaid.

XIX. *And be it further enacted* by the authority aforesaid, That if any negro or slave whatsoever, shall strike any white person, such negro or other slave, for his or her first offence, by information given, upon oath, to any two justices of the peace, shall be severely whipped, and have his or her right ear cut off; and for the second offence of that kind, if he or she hath been convicted of the first, it shall be left to two justices and three freeholders to inflict any punishment according to their discretion, death excepted. And in case any negro or slave shall so assault and beat any white person, by which the said white person is bruised, wounded, maimed or disabled, in such case, the said slave shall be punished with death; *Provided always*, that such striking, conflict or maiming, be not by command of, or in the lawful defence of, their master, mistress, manager, or owner of their families, or of their goods.

XX. *And be it further enacted* by the authority aforesaid, That any two justices of the peace, who, together with three freeholders, pursuant to the powers given them by this Act to try any negro or slave, shall fairly write, or cause to be written, the proceedings and judgment, either of acquittal or condemnation, and the execution, and all other matters relating thereunto, and the same, under their hands and seals, to the clerk of the crown


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or assize, or clerk of the county and precinct courts, respectively, where such trial shall arise, within three months after such trial, there to be made as a record of such their proceedings; and any single justice of the peace, who, pursuant to the powers given him by this Act, shall hear and determine any complaint, and give judgment against any negro, in any case, shall do the like, within the time aforesaid; upon the penalty of the forfeiture of forty shillings, to the informer, for every neglect of each and every such justices of the peace or freeholders, to be disposed of and recovered as hereafter is directed.

XXI. *And be it further enacted* by the authority aforesaid, That all such persons as shall apprehend and take up any runaway slave, and shall bring the runaway to his or their proper owner, if they know them, shall receive twenty shillings for such slave, and twelve pence per mile for the mileage, going to such owner or marshal; but if they know not the owner or master of such runaway, then they shall bring them to the marshal or gaoler of that precinct where the slave is taken, upon pain and forfeiture, for every day he or they shall keep such slave or slaves above five days, provided such slave be able to travel, besides the days reasonably to be allowed for the journey, according to the distance of the place, he or they shall forfeit, for every slave kept beyond the said five days, for each day, twenty shillings. And any person delivering runaway or fugitive slaves to the marshal, as aforesaid, shall, by oath, made before some justice of the peace, give account of his name and place of abode, with the time when, and place where, he apprehended such fugitive slave or slaves, and that he knew of no ticket the slave had, nor the owner of such negro or slave; to the intent that all owners of slaves may come to the right knowledge when their slaves were apprehended, and by whom, and whether they might be wrongfully taken up or not; that upon such oath being made, and the delivery of the slave or slaves, the provost marshal, or marshal of the precinct, shall enter such oath fairly in a book for the purpose, and shall also fix the same upon some public place of the gaol, upon the penalty of five pounds; and the marshal shall sign a receipt for such slave or slaves, and shall also pay, or cause to be paid, to the person or persons that brings such slave or slaves, the sum of twenty shillings for each slave, and also the mileage, as before directed by this Act; and in case the marshal shall refuse to pay the same, upon complaint made to any justice of the peace, the said justice, upon hearing the said complaint, is hereby authorized and required to direct his warrant to any constable, to cause the sum due, as aforesaid, to be immediately levied upon the goods and chattels of the marshal or gaoler, and the goods to be publicly sold by outcry, and satisfaction to be made to the party grieved, returning the overplus, if any, after reasonable fees and charges deducted, to the marshal or gaoler.

XXII. *And whereas*, there is sometimes reason to suspect that slaves do run away for want of a sufficient allowance of provisions; *Be it further enacted* by the authority aforesaid, That any two justices of the peace of the county where he resides, shall and may inquire, by the best means they can, whether slaves, throughout the several plantations, are sufficiently provided with corn or other provisions, and if it shall appear to them that any slaves are not sufficiently provided for, they shall inform the justices of the several courts of this Province, at the then next sessions of the Peace, and the owners, or attorneys or managers of any owners, of such slaves, shall forfeit any sum not exceeding fifty shillings, proclamation money, at the discretion of the justices of the same court.

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XXIII. *And be it further enacted* by the authority aforesaid, That it shall and may be lawful for the marshal or gaoler to detain and keep in custody the bodies of all such runaway slaves, until the owners or managers of such slaves shall pay unto him the full sum of what he pays for taking up runaway slaves, with one shilling in the pound for laying out the money, and so proportionably for a greater or lesser sum, and also two ryals in silver, or the value thereof, for every twenty-four hours the said slave hath been in his custody. And if the marshal or gaoler shall willingly or negligently suffer any slave or slaves to escape, or by any ways or means to be let out of his custody, before he be duly delivered to the owner or manager of such slave, or to some person by their order in writing, and a receipt of the person to whom delivered, wherein shall be inserted the mark or description of the slave delivered, then the said marshal or gaoler shall forfeit to the owner the full value of the slave or slaves so escaping, or being out of the marshal's custody, as aforesaid, the same being first appraised by any three freeholders, who shall be required to appraise the same by warrant or order of any two justices of the peace; the same to be recovered by action of debt, in the courts of common pleas in this Province, brought within six months after such escape. But upon recovery obtained by any person, against the marshal, for any slave or slaves so escaped, and the judgment satisfied and paid, the owner of such slave shall be obliged to assign unto the marshal all his right, title and interest to the slave or slaves so escaped and paid for by the marshal, as aforesaid; *Provided nevertheless*, that if the said slave shall be found again, the marshal shall be obliged to return the slave to the owner, if the owner shall desire the same, returning the moneys again to the said marshal, and the owner to be exempted from all fees that shall accrue by this Act, which shall be occasioned by the recaption.

XXIV. *And be it further enacted* by the authority aforesaid, That no person whatsoever, except the marshals or gaolers of prisons, shall keep any runaway slaves above the aforesaid time of five days, unless the slave be not able to travel, as aforesaid; nor shall the marshal or gaoler employ, or suffer to be employed, any slave or slaves in his custody, nor suffer him or them to want sufficient food and water, on the penalty of twenty-five shillings, proclamation money, for every such offence; and if any marshal or gaoler shall suffer any slave in his custody to die for want of food and water, or dry or convenient lodging, the marshal, gaoler, or any other person in whose custody the slave was, shall pay the master or owner the full value such slave shall be appraised at by any three freeholders, who shall be required to appraise the same, by warrant or order of any two justices of the peace; the said value, according to such appraisement, to be recovered by action of debt, in the court of common pleas in Charles City, or in any of the county or precinct courts whereto the marshal belongs, respectively, and to be brought at any time within six months after the death of such slave or slaves.

XXV. *And be it further enacted* by the authority aforesaid, That the marshal or gaoler of Charles City and Port, and of each precinct, shall give an account, in writing, at every sessions that shall be held within this Province, whereto such marshal belongs, of what slaves he hath in prison, with their marks and names and sex, and the time they have been in his custody, and, as near as he can learn, how long each slave hath been from his respective owner, on the penalty of seven pounds and ten shillings, proclamation money, for every neglect.

XXVI. *And be it further enacted* by the authority aforesaid, That every

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field officer, captain or commander, or lieutenant of a company within this Province, shall be, and is hereby, impowered and required, on notice to him given of the haunt, residence or hiding place of any runaway slaves, to raise a convenient party of men, as a patrol, and with them to pursue, apprehend and take the said runaway slaves, either alive or dead; and for every negro or other slave that they shall take alive, having been run away above six months from his master, they shall receive fifty shillings, proclamation money, from the master or owner of the said negro.

XXVII. *And be it further enacted* by the authority aforesaid, That in case any person or persons whatsoever, shall happen to be maimed, wounded or disabled, either in pursuing, attacking or taking any runaway negro or slave, then it shall and may be lawful, after the said person shall make it appear, by his own oath, or otherwise, to two justices of the peace and three freeholders, for them to adjudge and determine what shall be allowed to the person or persons so disabled, and by virtue of an order, under their hands and seals, shall direct the public receiver to pay such sum or sums of money as they shall draw for the said person or persons relief; and the public receiver is hereby required to pay the same accordingly.

XXVIII. *And be it further enacted* by the authority aforesaid, That in case any negro or other slave shall harbour, conceal, entertain and give victuals to any runaway slave, knowing him or her to be such, that upon complaint made thereof to any justice of the peace, such negro or slave, by order of the justice, shall be severely whipped, not exceeding forty lashes.

XXIX. *And whereas*, several owners of slaves used to suffer their said slaves to go whither they will, and work where they please, upon condition that their said slaves do bring their aforesaid masters so much money as between the said master and slave is agreed upon, for every day the said slave shall be so permitted to employ himself; which practice hath been observed to occasion such slaves to spend their time in looking for opportunities to steal, in order to raise money to pay their masters, as well as to maintain themselves, and other slaves, their companions, in drunkenness and other evil courses; for the prevention whereof, *Be it enacted* by the authority aforesaid, That no owner, master or mistress of any family, after the ratification of this Act, shall suffer or permit any slave to go whither, and work where, they please, under the penalty of the forfeiture of five shillings, proclamation money, for every day he, she or they shall willingly suffer any slave to do as aforesaid; and every person employing any slave without a ticket from the owner of such slave, shall forfeit five shillings, proclamation money, per diem, to the informer, for all the time he shall so employ such slave, over and besides what he paid, or agreed to pay, such slave for his work; *Provided nevertheless*, that the said penalty of five shillings per diem, shall not extend to any person where the property of such slave is disputable; *Provided also, nevertheless*, that nothing in this Act shall be construed or intended to hinder any person from letting their negroes or slaves to hire, by the year, or for any lesser time, or by the day, so as such negro or slave is under the care or direction of his master, or some other person by his order intrusted with the slave, and that the master is to receive the whole of what the slave shall earn, and that the person employing such slave have a certificate, note or memorandum thereof, in writing, from the owner, attorney or overseer of such slave.

XXX. *And be it further enacted* by the authority aforesaid, That no

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person whatsoever, after the ratification of this Act, shall settle and manage any plantation, cow-pen or stock, wherein ten taxable negroes or slaves shall be employed, without one or more white men living and residing upon the same plantation, upon the penalty or forfeiture of four pounds, proclamation money, for every three months they shall so offend.

XXXI. *And be it further enacted* by the authority aforesaid, That if any negro or other slave, under punishment by his master, or his order, for running away, or any other crimes or misdemeanors towards his said master, unfortunately shall suffer in life or member, which seldom happens, no person whatsoever shall be liable to any penalty therefor. But if any person shall, out of cruelty, or wilfully, kill a negro or other slave of his own, he shall pay into the public treasury fifty pounds, proclamation money; but if he shall so kill the slave of another man, he shall pay to the owner of the negro or slave, the full value, and into the public treasury, fifty pounds proclamation money; but not be liable to any other punishment or forfeiture for the same. But if the person so offending be a servant, or incapable of making satisfaction, he or she shall receive, on his or her bare back, nine and thirty lashes, by order of any two justices of the peace before whom the matter shall be proved, and shall be further liable to serve the owner or owners of such slave so killed, or his assigns, the full term of five years, by order of the said justices of the peace, to make the owner satisfaction for the loss of his slave. But if any person shall kill another person's negro or slave by accident, he shall not be liable to any other penalty but the owner's action at law; but if any person shall find any negro or other slave stealing or robbing, (the said slave making resistance, running away, or refusing to submit himself,) it shall and may be lawful for such person to kill the said negro or slave, and he shall not be liable to any damage or action for the same; any law, custom or usage to the contrary notwithstanding.

XXXII. *And be it further enacted* by the authority aforesaid, That all the fines and forfeitures aforementioned in this Act, not exceeding the sum of fifty shillings proclamation money, and not before particularly disposed of, nor the manner of the recovery directed by this Act, nor the time for the commencing the suit for the same, shall be recovered, prosecuted, adjudged, levied and distrained, by warrant by any one justice of the peace in this Province, as in the Act for the trial of small and mean causes is directed; and the same being so recovered, the one half shall be paid to the church-wardens or the overseers of the poor, for the use of the poor of the parish where the person inhabits against whom the forfeiture is recovered, and the other half to him that will prosecute for the same, at any time within six months. And all the fines and forfeitures mentioned in this Act, exceeding the sum of fifty shillings proclamation money, and not before particularly disposed of, nor the manner of the recovery directed by this Act, nor the time for the commencing the suit for the same, one half shall be paid to the church-wardens, to and for the maintenance and support of the poor of the parish whereto the slave belongs, and the other half to him or them that will sue for the same, at any time within six months after the offence committed, by action of debt, suit, bill, plaint or information, in any court of record in this Province, wherein no essoign, protection, privilege, injunction, wager of law, or stay of prosecution, by *non vult ulterius prosequi*, or otherwise, shall be admitted or allowed.

XXXIII. *And be it further enacted* by the authority aforesaid, That if any action, plaint, suit or information shall be commenced or prosecuted against

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any person or persons, for what he or they shall do in performance or execution of this Act, such person or persons so sued may plead the general issue, not guilty, and upon issue joined, give this Act and the special matter in evidence; and if the plaintiff or prosecutor shall become non-suit, or suffer discontinuance, or if a verdict pass against him, the defendant or defendants shall recover his or their treble costs, for which he or they shall have the like remedy as in any case where costs by law are given to the defendant.

XXXIV. *And be it further enacted* by the authority aforesaid, That all and every person and persons whatever, for any matter or thing whatsoever, which has been or shall be done by them, in performance, execution, or according to the directions, true intent and meaning of an Act entitled "An Act for the better ordering and governing of slaves," passed the seventh June, 1712, before this Act takes place, shall have the like liberty to plead the general issue, and give this Act, the said Act of the seventh of June, 1712, and any special matter, in evidence, notwithstanding the repeal of the said Act of the seventh of June, one thousand seven hundred and twelve; and if the plaintiff become non-suit, suffer a discontinuance, or a verdict pass against him, the defendant shall recover treble costs of suit.

XXXV. *And whereas*, great inconveniences do arise from negroes and other slaves keeping and breeding of horses, whereby they convey intelligences from one part of the country to another, and carry on their secret plots and contrivances for insurrections and rebellions. *Be it therefore enacted* by the authority aforesaid, That every justice of the peace, in the county where he lives, who, after the five and twentieth day of March next, shall know or be informed of any slaves keeping any horse or horses, or any neat cattle, shall cause the same to be taken away and sold, and the monies thereby arising to be given to the church-wardens, for the use of the poor of the parish; and if any master or mistress of any slave, or other white person, shall take upon him to vouch any horse or neat cattle so taken away, to belong to him or them, the proof shall lie upon such master, mistress, or other white person, and they shall make oath before the magistrate who caused the said horse or cattle to be taken away, that such horse or neat beast, did, bona fide, at the time of its being taken away by the magistrate, belong to him the claimer, and not to any negro or other slave whatsoever. And the master, mistress, or any other person, laying claim to any horse or neat beast so seized, shall be served with an order of such justice, to shew cause why such horse or neat beast should not be sold, at a day, time and place affixed by the said justice, and not appearing, or appearing and not giving sufficient cause to the said justice, the said justice of the peace shall proceed to make sale, or order the same to be sold; and such sale shall be binding against all persons whatsoever. And it shall be lawful for any person to seize hogs kept by slaves, and all boats and canoes belonging to any slaves, and shall give notice thereof to the next justice, who shall proceed to sell the same in manner aforesaid. And if the party laying claim to such horse or neat beast, or hogs, or boats, or canoes, shall commence any action against the magistrate or buyer of the said horse, or neat beast, or hogs, or boats, or canoes, or the person seizing the same pursuant to this Act, in all such cases, the defendant or defendants shall have liberty to plead the general issue, and give this Act and the special matter in evidence; and if the plaintiff shall discontinue his action, become nonsuit, or a verdict pass against him, the defendant shall recover

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of the plaintiff treble costs of suit, to be taxed by the judge or judges before whom the action shall be commenced; and it is hereby enacted, that every person who shall send any slaves in periaugoes, canoes or boats, shall give them a ticket for that purpose.

XXXVI. *And be it further enacted* by the authority aforesaid; That all actions hereafter to be brought against any person or persons whatsoever, for any matter or thing whatsoever, done or to be done in the execution of this Act, or any former Act made in relation to negroes before this Act took place, or where they had color to justify themselves, under this or the said former laws in relation to negroes or other slaves; all such causes shall be tried, heard, and determined in the county or precinct courts, if the said facts were committed within the limits of the said county and precinct courts, and not elsewhere; and if such causes shall happen to be tried elsewhere, the proceedings shall be quashed, and the judgment thereupon shall be stayed and arrested.

XXXVII. *And be it further enacted* by the authority aforesaid, That all negroes and other slaves who shall happen to have been killed or executed in pursuance of any former law before this Act took place, or by any order of the present or former Governor, or Governor and council, or any other person in pursuance of any former Act or Acts made in relation to slaves, the owners of such negroes in all the cases aforesaid, (except such as have been executed for wilful murder,) shall be paid for the same out of the public treasury, not exceeding one hundred pounds current money, for which a quorum of any two justices and three freeholders, as aforesaid, shall have power to draw on the receiver general for the public for the same, the quorum of the said justices and freeholders certifying the matter specially at the same time to the said receiver under their hands, viz:—the name of the slave killed or executed, together with his age and qualifications, as near as they can learn, the time when and the cause for which such slave was killed or executed, and by whose order.

XXXVIII. *And whereas*, it has many times happened, that where slaves have been convicted of criminal offences, the marshals and constables have refused to execute the sentence awarded against them by the justices and freeholders, there being no law to compel them thereunto, so that slaves have frequently gone unpunished; *Be it therefore enacted* by the authority aforesaid, That in all cases where slaves shall be convicted of any capital offences, the provost marshal of Charles city and port, if such slave shall happen to be tried within the bounds of the general court of Charles city and port, shall cause execution to be done upon such slave or slaves, according to the direction of the justices and freeholders; or otherwise, he shall forfeit fifty shillings proclamation money, to be recovered by warrant under the hands of any two justices; and if the slave shall be tried within the limits of the county and precinct courts for any capital crime, execution shall be done by the marshals of the county and precinct courts, respectively, under the like penalty, to be recovered as aforesaid; and if any slave be convicted of any lesser crimes, the punishment shall be inflicted by the marshals or constables belonging to the precinct or places where such slaves are tried, or some person by their order or procurement, according to the sentence given against such slaves by the justices and freeholders, or any single justice of the peace that hath cognizance of the cause, under the like penalty of fifty shillings proclamation money, to be levied by warrant under the hands of one or more justices, on every constable or marshal respectively, refusing or neglecting to procure such punishment

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to be inflicted and put in execution; and the marshal or constable shall be allowed for branding or cutting off the ear of any slave who shall be sentenced to that punishment, two shillings and six pence proclamation money; and for whipping every slave, two shillings and six pence proclamation money; to be paid by the owner, attorney, or manager of any plantation; for which the marshal or constable shall have a warrant from any justice of the peace for the recovery, if refused to be paid.

XXXIX. *And be it further enacted* by the authority aforesaid, That all owners of slaves, who, at any time hereafter, shall manumit or set free any slave, for any particular service, shall make provision for his departure out of this Province; and such slave who shall not depart this Province, by the space of twelve months next after such manumission, (being at liberty so to do,) shall lose the benefit of such manumission, and continue to be a slave, to all intents and purposes whatsoever, unless such manumission shall be approved of and confirmed by an order of both Houses of Assembly.

XL. *And be it further enacted* by the authority aforesaid, That all fines accruing by virtue of this Act, shall be to his Majesty, for and towards the uses hereinbefore mentioned and expressed, and to no other end, use, intent or purpose whatsoever.

XLI. *And be it also further enacted* by the authority aforesaid, That this Act, and the several powers and enactments therein contained, shall be and continue in force for and during the space of seven years, and from thence to the end of the next sessions of Assembly, and no longer.

XLII. *And be it further enacted* by the authority aforesaid, That in case any person summoned to give evidence against any slave accused of any crime, being lawfully summoned to appear before the aforesaid justices and freeholders, shall neglect, without lawful cause, or refuse, to appear, or appearing, shall refuse to give evidence, for every such offence shall forfeit the sum of twenty-five pounds proclamation money, to his Majesty, for the use of this Province, to be recovered as is hereinbefore directed.

XLIII. *And be it further enacted* by the authority aforesaid, That the justices and freeholders, being assembled in manner hereinbefore directed, any one justice and two freeholders, or the two justices and one of the freeholders, agreeing in their opinions, shall be deemed a quorum, and are hereby empowered to give judgment against any slave that they shall find guilty of the crimes whereof any such slave shall be accused, or acquit him or them thereof.

Council Chamber, Charles City and Port, February 23, 1722.

FRANCIS NICHOLSON, *Governor.*

JAMES MOORE, *Speaker.*

AN ACT FOR THE BETTER ORDERING AND GOVERNING NEGROES AND
OTHER SLAVES. No. 586.

FORASMUCH, as the plantations and estates of this Province cannot be well and sufficiently managed and rendered useful, without the labour and service of negroes and other slaves, and as the said negroes and other slaves are generally of a barbarous and savage nature, and unfit to be governed by the laws, customs and usages of England, but that it is found to be absolutely necessary that such laws, rules and orders should be made and enacted for the good regulating and ordering of them, as may restrain the disorders, rapines and inhumanities to which they are naturally prone and inclined, and may also tend to the safety and security of the white people of this Province and their estates: We therefore pray your most sacred Majesty that it may be enacted,

I. *And be it accordingly enacted*, by his Excellency Robert Johnson, Esquire, Captain-general, Governor and Commander-in-chief in and over this Province of South Carolina, by and with the advice and consent of his Majesty's honorable Council, and the Assembly of this Province, and by the authority of the same, That all negroes, mulattoes, mustees and Indians, which at any time heretofore have been sold, or now are held and taken to be slaves, or which hereafter shall be bought and sold for slaves, are hereby ordered and declared to be slaves, and they and their children are hereby made and enacted slaves, to all intents and purposes whatever; excepting all such negroes, mulattoes, mustees or Indians, which heretofore have been, or hereafter shall be, for some particular merit, made and declared free, either by the Governour and Council in this Province, in pursuance of any Act or law of this Province, or by their respective owners or masters; and also except all such negroes, mulattoes, mustees or Indians which can prove that they ought not to be sold for slaves; and in case any negro, mulatto, mustee or Indian; doth or shall lay claim to his, her or their freedom, upon all or any of the said Acts or otherwise, the same shall be finally heard and determined before the judges and justices of the court of general sessions, assize and gaol delivery in this Province, in open court, at the sitting of the same, by a verdict of twelve men, and not otherwise.

II. And for the better ordering and governing of negroes and all other slaves in this Province, *Be it enacted* by the authority aforesaid, That no master, mistress, overseer, or other person whatsoever, that hath, or shall have, the care or charge of any negro or slave, shall give their negroes or other slaves permission on Sundays, holidays, or any other time, to go out of his, her or their plantations, without a letter or ticket; and every person who shall see any negro or slave out of his master's or mistress's plantation, without a ticket or leave in writing from the master or mistress, or some other person by his or her appointment, or having charge of the same, or without some white person in the company of such slave, to give an account of his business, is hereby empowered to correct such slave by whipping, not exceeding twenty lashes; and every overseer of a plantation, which shall not (when in his power) apprehend every strange negro or other slave which he shall find in his master or mistress's plantation, without leave or permission as aforesaid, or who, after apprehending him, shall neglect to punish him by whipping as aforesaid, shall forfeit twenty shillings current money, the one half to be paid to the church-wardens of the parish, for the use of the poor thereof, where such forfeiture shall become due, and the other

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half to such person as within one week after such neglect shall inform any of his Majesty's justices of the peace residing in the said parish, who are hereby empowered to proceed to levy such forfeitures as is provided by the law for the trial of small and mean causes; *provided always nevertheless*, that every master, mistress or overseer, shall and may have liberty to whip any strange negro or other slave coming to his or their plantation with a ticket, or having a livery, on Sundays and holidays, or any other times, unless it shall appear that the business or errand of the said slave was to the master, mistress or overseer of the said plantation, and not to visit, idle or loiter with the other negroes or slaves; any thing herein before mentioned to the contrary notwithstanding. And that no slave may make further or other use of any one ticket than the person intends who grants the same, every ticket shall be dated, and particularly mention the name of every slave employed in the particular business, and to what place they are sent, and what time they are to return. And if any person shall presume to give any negro or slave a ticket in the name of his or her master, mistress or overseer, and without his or her consent for the same, every such person shall forfeit the sum of twenty pounds, to be levied by execution for the same, on conviction thereof, by any justice of peace residing in the parish where such offence shall happen; the one half of which forfeiture is to go to the poor of the said parish, and the other half to the person who informs of the same, within a fortnight after the offence be committed; and if such offender have not sufficient effects to satisfy the said penalty, any two justices of the peace are hereby empowered to order him to be whipped on the bare back, not exceeding twenty lashes.

III. And for the better security of all such persons who at any time shall endeavor to take any runaway slaves, or that shall examine any slave or slaves for his or their ticket when seen out of his or their master's or mistress's plantation, *It is hereby declared* lawful for any white person to beat, maim, or assault any slave who endeavours to avoid such white person by running away; and if any such slave shall resist with a stick or other instrument or weapon, that then it shall and may be lawful to kill any slave or slaves so resisting.

IV. *And be it further enacted* by the authority aforesaid, That every justice of the peace, in the county where he resides, shall have power, at all times when he sees fit, to go in person, or grant warrants to any constables or other persons whatsoever, to enter into any places where cabals of negroes are suspected, and to have the same power as any patrol, and search for guns, pistols, swords, cutlasses, and other offensive weapons, in negro houses or other suspected places; and the said weapons in the custody or keeping of any negro or other slave to take away, and the same detain to his own use, unless such negro or slave shall have a ticket or license in writing from his master, mistress or overseer, to hunt and kill game, cattle, or mischievous birds or beasts of prey, and that such license be renewed once every month, or unless there be some white adult person in the company of such slave when he is a hunting or shooting, or that such slave be actually carrying his master's arms to or from muster, or to or from his master's plantation, by a special ticket for that purpose, or unless such slave be found in the day time actually keeping off rice birds or other birds within the plantation to which such slave belongs, lodging the same gun at night within the dwelling house of his master, mistress or white overseer; *provided always nevertheless*, that no master, mistress

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or overseer shall license above one slave in a plantation to be possessed of a gun for the purpose aforesaid, on pain of the forfeiture of forty shillings for every such offence, to be recovered and distributed like the other forfeitures in manner aforesaid, except as before excepted; *and provided also*, that no negro or other slave shall have liberty to carry any gun, cutlass, pistol, or other weapon, abroad from home, at any time between Saturday evening after sun set and Monday morning before sun rise, notwithstanding a license or ticket for so doing; and every gun, pistol, sword, cutlass, or other offensive weapon, which shall be found in the custody of any slave not qualified to carry or keep the same as aforesaid, shall be forfeited to the finders or other persons seizing the same, who are hereby impowered to seize and detain the same to their own use, without other form, law or process; and if any such person be sued for so doing, he may plead the general issue, and give this Act with any other matter in evidence.

V. *And be it further enacted* by the authority aforesaid, That if any slave so intrusted or licensed as aforesaid to keep or carry a gun, pistol or cutlass, shall shoot or kill any person's cattle, sheep, hogs or poultry, other than his owner's, or shall suffer it out of his custody to any other slave, who shall do such like injuries, the owner or manager of such slave so entrusted, shall in such case forfeit to the party injured, double the value of the thing so killed, to be recovered by warrant of any justice residing in the parish where such injury is done, upon proof thereof by such offending slave's confession, or by the oath of any one white man, or evidence of two slaves, whom the said justice shall have reason to believe on the circumstances before him; and the slave so offending shall be ordered to be whipt not exceeding twenty lashes.

VI. *And be it further enacted* by the authority aforesaid, That every master or head of any family, shall keep all his guns and other arms, when out of use, in a room locked, upon pain of forfeiting three pounds current money, if convicted of neglect therein before any justice of peace.

VII. *And be it further enacted* by the authority aforesaid, That no owner or overseer shall give any slave or slaves a ticket or letter to go to Charlestown, or from plantation to plantation, on Sundays, except it be on some particular occasion as cannot be delayed to another time, and that the business be specified in every such ticket, or shall have a letter, on pain of the forfeiture of twenty shillings, to be recovered from the said owner or owners before any justice of the peace for that county; and such slave is to be dealt with as if he had no ticket or letter.

VIII. *And be it further enacted* by the authority aforesaid, That upon complaint made to any justice of the peace of any heinous crime committed by any slave or slaves, where clergy is taken away by the laws of England or this Province, the said justice is hereby required to issue his warrant for apprehending the offender or offenders, and for all persons to come before him that can give evidence thereof; and if it appeareth probable that the apprehended slave is guilty of any such crime, or of burning stacks of rice, tar kilns, barrels of tar, pitch or turpentine, which are hereby declared to be felony without benefit of clergy, the said justice shall commit every such offender to prison, or immediately proceed to trial of the said slave or slaves, according to the form hereafter specified, and also to certify to any neighbouring justice of the said county the said cause, and require him, by virtue of this Act, to associate with him, which said justice is hereby required so to do; and the said justices so associated, are to issue their summons to three sufficient freeholders, acquainting them

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with the matter, and appointing a day, hour and place when and where the same shall be heard and determined; at which day, hour and place the said justices shall cause the offenders and witnesses to come before them; and if they, with the said freeholders, on hearing the matter, (the said freeholders being first sworn by the said justices to judge uprightly and according to evidence,) shall find such slave or slaves guilty thereof, they shall thereupon give sentence of death, and forthwith, by their warrant, cause immediate execution to be done by the common executioner or any constable of the said parish, in such manner as they shall think fit; the kind of death to be left to their judgment and discretion who are the tryers of such offenders, and the charge of the prosecution to be paid by the master, mistress or owner of the slave if convicted, and the prosecutor to pay the same if such slave be acquitted.

IX. *And be it further enacted* by the authority aforesaid, That two justices and one freeholder, or one justice and two freeholders, of the said two justices and three freeholders, shall make a quorum, and the conviction or acquittal of any slave or slaves by such a quorum of them, shall be final.

X. *And be it further enacted* by the authority aforesaid, That in case any negro or other slave shall be accused and convicted before two justices and three freeholders as aforesaid, of feloniously stealing any goods, chattels, wares or merchandizes, exceeding the value of twenty shillings, current money, every such slave shall, for the first offence, be branded with an R on the right cheek, with a red hot iron, and be whipped not exceeding twenty lashes; and for the second offence of the like or greater value, if it shall appear to the justices that he was before convicted of a former felony of the said value of twenty shillings, such slave shall, in such case, be branded with an R on the left cheek, with a red hot iron, and be whipped not exceeding forty lashes; and for the third offence, every such slave shall suffer death.

XI. *And be it further enacted* by the authority aforesaid, That every slave who shall be guilty of any other felonious crime where a white man is allowed the benefit of clergy, and ought to be punished by burning in the hand, a slave shall be burned with the letter R in the forehead; and on conviction of the second offence of that degree, he or she shall suffer death, after the record is produced of the former conviction. And in case any slave shall appear, before any one justice of peace, to be guilty of stealing any fowls, lambs, pigs, hogs, calves or poultry, or any other edible matter or other thing, under the value of twenty shillings, every such slave shall be ordered to be punished by whipping only, not exceeding thirty lashes. And on conviction of any slave or slaves for the offences aforementioned, the tryer or tryers of the same may award a forfeiture to the party injured, from the owner or owners of such convicted slave or slaves, to answer the damage done for every such offence, not exceeding in the whole the sum of twenty pounds; excepting always where such convicted slave or slaves be put to death, in which case no forfeiture shall be awarded against the owner or owners. And in case the said justices and freeholders, or any of them, shall neglect or refuse to perform the duty by this Act required, he or they shall severally, for each default, forfeit the sum of ten pounds.

XII. *And be it further enacted* by the authority aforesaid, That if any person shall send his slave out of this Province, that hath killed another slave, or committed a felony, before such slave is duly tried and punished

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for the same, the owner of every such offending slave, so sent off, knowing him to be guilty of such crime, shall pay to the person injured, do ble the value of the slave so killed, or goods so stolen. And in case any person shall send, or cause to be sent, any slave off this Province, having killed a white person, that such slave may escape execution, every such person, so offending, shall forfeit the sum of five hundred pounds, half of which is to go to his Majesty, for the support of this government, and the other moiety to the informer who shall sue for the same in any court of record in this Province.

XIII. *And be it further enacted* by the authority aforesaid, That if any slaves shall make, or raise, or confederate or conspire to make, an insurrection or mutiny, or to rise against the white people, or against the authority and government of this Province, or shall prepare for that purpose any offensive weapons or ammunition, the offenders shall be tried in manner aforesaid, by any two justices of peace, associated together with three freeholders, who are hereby empowered and required, on the penalty aforementioned, to hear and determine the said offences, and to order and award immediate execution of death, or other punishment, in such manner as they shall think fit, upon the offenders. And if any person or persons shall make away or conceal any slave or slaves suspected to be guilty of the crimes last aforementioned, and not produce them on demand, every such person shall forfeit the sum of two hundred and fifty pounds, current money, for every slave so concealed or made away. *Provided nevertheless*, that when and as often as any of the crimes aforesaid shall be committed by more than one slave at a time, that shall deserve death, that in all such cases, if the justices and freeholders who shall try such slaves, or a quorum of them, shall think fit, and accordingly order, that one or more of the said criminals should suffer death, by way of example, and the rest be returned to their respective owners, that then the owners of the slaves so returned, shall, respectively, bear a proportionable loss of the slave or slaves so put to death, as shall be allotted them by the said justices and freeholders, or a quorum of them, so that the slave or slaves so put to death be not valued at a sum exceeding two hundred pounds per head, current money, severally and respectively; which said allotment, the said justices and freeholders, or a quorum of them, are hereby empowered to levy, by warrant of distress, on the goods and chattels of the person or persons who shall be allotted to pay the same; and the said goods and chattels shall be sold at public outcry, to satisfy the sum or sums so allotted, and the overplus, if any there be, shall be returned to the respective owners; in which case, as often as it happens, no charge shall affect the public.

XIV. *And be it further enacted* by the authority aforesaid, That the confession of any slave accused, or the testimony of any other slave or slaves, attended with circumstances of truth and credit, shall be deemed good and convincing evidence on the trial of any slave or slaves for any of the crimes aforesaid, or any other crimes, capital or criminal; of the strength of which evidence, the said justices and freeholders who try the same, are hereby made sufficient and competent judges.

XV. *And whereas*, divers ill disposed persons have heretofore attempted to allure and steal away slaves, with the specious pretences of promising them freedom in another country; *Be it therefore further enacted* by the authority aforesaid, That if any white man, free man or servant, shall at any time, directly or indirectly, persuade or allure any slave or slaves to depart from his, her or their owner's service, or the service to which any such

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slave or slaves are by his or their owners appointed, with an intent or design to send or carry any such slave or slaves out of this Province, every such person, so offending, shall forfeit and pay to the owner or owners so grieved, the sum of five hundred pounds, current money, for every slave so allured and persuaded, to be recovered by action of debt, in the court of common pleas in this Province, at any time within six months after the offence committed; and in case such person shall not satisfy the judgment that shall in such case go against him, within thirty days, the provost marshal shall make application to the next magistrate, who, on such default of payment, shall order every such offender to be branded in the forehead and be publicly whipped, not exceeding thirty-nine lashes. But if any person or persons shall actually send or carry away out of this Province, the slave or slaves of another person, without the owner's consent or privity, or shall be taken in the act of taking or carrying away any slave or slaves, in order to send or convey them out of this Province, every such offence is hereby declared felony, without benefit of clergy; and if the person or persons so offending, shall be legally convicted thereof at the court of general sessions, assize and general goal delivery, he shall suffer death as a felon, accordingly.

XVI. *And be it further enacted* by the authority aforesaid, That in case any negro or slave shall run away from his owner, with intent to go off this Province, in order to deprive his owner of his service, every slave, being declared guilty of the same by two justices and three freeholders, or a quorum of them, as aforesaid, shall be subject to suffer such corporal punishment as the said justices and freeholders shall think proper. And if several slaves be concerned in a gang together, in running away off this Province, and be re-taken, one or two, or more, of whom, the said justices and freeholders shall think the greatest offenders, shall suffer death, and the rest shall be punished as the said justices and freeholders shall think reasonable. And the owner or owners of the negroes saved shall contribute equally, as aforesaid, to make up to the other owner or owners the loss sustained by the slave or slaves so executed; and if all the gang so taken shall belong to one person, he shall bear the loss himself. And in case any negro or slave shall be guilty of enticing or persuading any other slave to run from his owner's service, and to depart this Province, and being convicted of the same before the justices and freeholders, in manner aforesaid, such negro or slave shall be severely whipped, not exceeding thirty-nine lashes, and shall also be branded on the forehead with a red hot iron.

XVII. *And be it further enacted* by the authority aforesaid, That if any negro or slave shall strike a white person, such negro or slave, for his or her first offence, on information thereof, upon oath, to any two justices of the peace, shall be severely whipped, and have his or her right ear cut off; and for the second offence of that kind, it shall be left to two justices and three freeholders, or a quorum of them, as aforesaid, to order any punishment to be inflicted on such offender, as they, in their discretion, shall think fit, death excepted. And in case any negro or slave shall wound, maim, bruise or disable any white person, such offender is to be tried by two justices and freeholders, as aforesaid, and, convicted thereof, shall be punished with death; *Provided always*, that such striking, conflict or maiming be not by command, or in the lawful defence of, his or her owner or manager, or of their family or goods.

XVIII. *And be it further enacted* by the authority aforesaid, That any two justices of the peace, who, together with three freeholders, shall, by

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virtue of this Act, proceed to try any negro or slave, shall fairly write, or cause to be written, the proceedings, judgment and execution, and all other matters relating thereto, and the same shall certify to the clerk of the crown and peace, in Charlestown, within three months after such trial, there to be by such clerk kept as a record of such proceedings, upon pain of forfeiting to the informer, for every such neglect or default, the sum of ten pounds from each of the said justices and freeholders, to be recovered by warrant of distress from the chief justice and any two other of the puisne judges or justices, who are hereby empowered to order such distress to be sold by public outcry, and the overplus to be returned to the owner.

XIX. *And be it further enacted by the authority aforesaid*, That all such persons as shall apprehend and secure any runaway slave, and shall bring him or her to his or their proper owner, shall receive twenty shillings from the said owner, or from the manager of the plantation to which such runaway belongs, and also twelve pence per mile for the mileage, going to such owner or manager. But if they know not the owner of such runaway, or that the dwelling or plantation of such owner be further off than Charlestown, then they shall bring the said slaves to the next constable, who shall deliver such runaway slave or slaves to the constable of the next Parish, and so on till such slave or slaves shall be delivered to his, her or their owner, or to the provost marshal, in Charlestown, within five days after such slave is taken, upon pain of forfeiting the sum of twenty shillings for every day above the said five days, after a reasonable time be allowed for the journey, and provided such slave be able to travel; which said provost marshal or owner, is hereby required to pay the allowance aforesaid, for the apprehending and mileage, as aforesaid, which, if paid by the marshal, shall be re-paid by the owner. And any white person delivering any fugitive slave to the marshal, as aforesaid, shall certify his name, place of abode, with time and place where such slave was taken or delivered to him, and that he knew of no ticket such slave had; all which the provost marshal is to publish in the gazette, and in case there be no gazette, then in some other notable manner; and shall sign the deliverer a receipt for such negro or slave given into his custody. And in case the provost marshal shall refuse payment to any person who shall bring him a fugitive slave, as is hereinbefore provided, upon complaint thereof to any justice of peace, the same is hereby directed to be recovered as provided by the law for the trial of small and mean causes.

XX. *And forasmuch as slaves are sometime suspected to be runaway for want of sufficient allowance and provisions; Be it further enacted by the authority aforesaid*, That if it shall appear to any two justices of the peace, that the slaves in any plantation of that parish are not sufficiently provided with victuals, the said justices and two freeholders, or a quorum of them, shall have power to condemn the owners, managers, or the attorneys of the owners of such slaves, in the forfeiture of any sum not exceeding twenty pounds, current money, and to order execution for the same, if payment be refused on demand thereof.

XXI. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful to and for the provost marshal, or his gaoler, to detain all such runaway slaves in custody, till the said marshal or gaoler is satisfied the money he advanced for the same to the deliverer, as by this Act is before directed, and the further sum of one shilling in the pound for advancing the same, and also the sum of five shillings for every twenty-four hours the said slave has been in his custody, rateably and proportionably, ten shillings for putting on and knocking off the irons, and no other

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fee whatsoever. And if the said marshal or gaoler shall voluntarily suffer any slave or slaves to escape out of his custody or power, before they be delivered to the owner or manager, or to some person by their order, in writing, the marshal or gaoler shall, in such case, forfeit and pay to the said owner or manager, the full value of the slave or slaves so escaped, to be recovered by action of debt in the court of common pleas in this Province; *Provided nevertheless*, that if the said slave or slaves shall be retaken, the marshal or gaoler shall restore the same to the said owner or manager, on his request thereof, and on returning the money which he was paid for the same by the said marshal or gaoler, but the said owner is to be exempt from all fees occasioned by such recaption.

XXII. *And be it further enacted* by the authority aforesaid, That if the marshal or gaoler shall work, or employ, or suffer any slave in his custody to be worked or employed, which was delivered into the custody of the said marshal as a fugitive slave, or shall suffer such slave to want sufficient food and water, the said marshal or gaoler shall, for every day's offence, forfeit to the owner or manager of the said slave, the sum of ten shillings, from the first day he was received into the prison; and if the said marshal, gaoler, or other person having custody as aforesaid of any slave or slaves delivered to him or them as fugitive slaves, shall let any such slave or slaves starve or perish for want of sufficient food and water, or dry lodging, the said marshal, gaoler, or other person having such slave or slaves in custody as aforesaid, shall pay to the owner or manager of such slave or slaves, the full value of the same, to be appraised by any three freeholders, by order of any two justices of the peace; and the said appraised value is to be recovered within six months after the death of the said slave or slaves, by action of debt in the court of common pleas of this Province.

XXIII. *And be it further enacted* by the authority aforesaid, That every field officer, captain, commander and lieutenant of a company within this Province, shall be, and is hereby, required and empowered, on notice given to him or them of the haunt, cabal, residence or hiding place of any runaway or other slaves, to raise a convenient party of men as a patroll, with equal privileges and power of a patroll, and with them to pursue and apprehend the said slaves, alive or dead; and for every runaway slave taken alive and brought to his owner, (if run away above six months before,) they shall receive ten pounds from the said master or owner; and if refused, shall recover the same as provided by law for the trial of small and mean causes.

XXIV. *And be it further enacted* by the authority aforesaid, That in case any person or persons whatsoever, whether a free man or a slave, shall happen to be wounded, maimed or disabled, either in pursuing, attacking or taking any such runaway slave or slaves, then it shall and may be lawful for any two justices of the peace and three freeholders, on the said person's oath or other evidence, to adjudge and determine what shall be allowed to the person so wounded, maimed or disabled, and, by virtue of an order under their hands and seals, shall direct the public receiver to pay to the said person or persons such sum or sums of money as they shall think fit for his or their relief, which the said receiver is hereby required to pay accordingly.

XXV. *And be it further enacted* by the authority aforesaid, That if any negro or other slave shall harbor or entertain, conceal or give victuals to, any runaway slave, upon complaint thereof to any one justice of peace, such negro or other slave, by order of the said justice, shall be severely whipped, not exceeding thirty-nine lashes.

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XXVI. And *whereas*, several owners of slaves do suffer their slaves to go where they will, and work where they please, upon condition that such slaves do pay their said owners a certain sum of money, agreed upon between the said owners and slaves, which practice has occasioned such slaves to pilfer and steal, to raise money for their said owners, as well as to maintain themselves and companions in drunkenness and evil courses; for the prevention whereof, *Be it enacted* by the authority aforesaid, That no owner, master or mistress of a family, after the ratification of this Act, shall suffer or permit any slave of his, hers or theirs, to go whither or work where they please, under the penalty of forfeiting ten pounds current money for every such offence; to be paid to the informer or any person who shall sue for the same, to be recovered as is directed by the law for the trial of small and mean causes. And every person employing any slave without a ticket from the owner of such slave, shall forfeit, to the informer, five pounds current money, for each day he so employs him, over and above the wages agreed to be paid to such slave for his work; *Provided nevertheless*, that the said penalty of five pounds per diem, shall not extend to any person whose property in such slave is disputed; and *provided*, that nothing herein contained shall hinder any person or persons from hiring out by the year, week or day, or any other time, any negroes or slaves, to be under the care and direction of his or their owner, master or employer; and that the master or owner is to receive the whole of the earnings of such slave or slaves; and that the employer have a certificate or note in writing, of the time and terms of such slave's employment, from the owner, attorney or overseer of every such slave, severally and respectively.

XXVII. And *be it further enacted* by the authority aforesaid, That no person whatsoever, from and after the ratification of this Act, shall settle or manage any plantation, cowpen or stock, wherein ten taxable negroes or slaves shall be employed, without one white man living and residing on the said plantation, upon the penalty or forfeiture of ten pounds current money, for every month any person shall so offend; half which to go to the informer, and the other half to the poor of the parish where such plantation lies, to be recovered as provided by the law for the trial of small and mean causes.

XXVIII. And *be it further enacted* by the authority aforesaid, That if any slave under punishment by his owner or his authority, or by authority of this Act, for running away, or other crime or misdemeanor towards his said owner, shall suffer in life or member, no person shall be liable to answer for the same; but if any person shall cruelly or willfully kill a slave of his own, he or she shall pay into the treasury five hundred pounds current money; to be recovered by the public treasurer, by bill, plaint or information, in any court of record in this Province. But if any person shall cruelly or wilfully kill the slave of another, except as before excepted, he shall pay the owner the value of the same, and shall pay the public treasurer the sum also of five hundred pounds current money, to be recovered in manner last aforesaid, both which forfeitures so payable to the treasurer, shall enure one half to his Majesty for the support of this government, and the other half to such person or party who shall inform and sue for the same; and such person shall not be liable to any further punishment or forfeiture for the same. But if any person so offending, be unable to satisfy the value or forfeitures aforesaid, such person shall, by order of any two justices, be whipped on the bare back, not exceeding thirty-nine lashes, and shall serve the owner of the slave so killed, or his assigns, the

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full term of three years, in satisfaction of the said owner's loss of his slave ; but if any person's slave shall be killed by accident, the owner of such slave is left to his action at law, and no other penalty shall affect any person who happens to kill any slave by accident. But if any person shall find or perceive any negro or slave stealing, robbing, or committing burglary, (and that such negro or slave runs away, resists or refuses to submit,) in such case, it shall and may be lawful for any such person perceiving such actual or intended mischief, to kill every such negro or slave, and shall not be liable to any damage for the same ; any law, usage or custom to the contrary notwithstanding.

XXIX. *And be it further enacted* by the authority aforesaid, That if any person shall be sued or prosecuted for what he shall do in performance, execution, or by virtue of this Act, every such person may plead the general issue, and give this Act and the special matter in evidence. And if the plaintiff or prosecutor shall suffer a discontinuance, or become non-suit, or that a verdict pass against him, the defendant shall recover his treble cost of suit, and shall have such remedy to compel the payment of the same, as is usually given for the recovery of costs.

XXX. *And be it further enacted* by the authority aforesaid, That all and every person and persons, for every matter or thing whatever, which, before the ratification of this Act, has been done by them in performance, execution or by virtue of a former Act, entitled "An Act for the better ordering and governing of negroes and other slaves," ratified the twenty-third day of February, one thousand seven hundred and twenty-two, shall have liberty to give the said Act and any other matter in evidence, as fully as if the said Act was still in force, and shall also have the benefit of the said Act as to the allowance of costs, as if the said Act was still subsisting.

XXXI. *And whereas*, great inconveniences do arise from negroes and other slaves breeding and keeping horses, whereby they convey intelligence from one part of the country to another, and carry on plots and mischievous contrivances ; *Be it therefore further enacted* by the authority aforesaid, That every justice of the peace, in the county where he lives, who shall know or hear of any slave keeping any horse, horses, or neat cattle, shall by warrant empower any constable of that parish to take away and sell the same ; and the money thereby arising is to be given to the church-wardens, for the use of the poor of the said parish. And if the owner of any slave, or other white person, shall vouch such horse or neat beast so taken, to belong to him or them, the proof of such assertion shall lie upon the claimer, who shall make oath before the said justice who caused the said horse or beast to be taken away, that such horse or neat beast, at the time it was so taken, did, bona fide, belong to him the claimer, and not to any negro or slave whatever : But if, upon the circumstances, sufficient cause shall not appear to the said justice why the said horse or beast should not be sold, at a day and place prefixed for that purpose, the said justice shall proceed to sell the said horse or neat beast, or shall cause the same to be sold ; which sale shall be binding to and against all persons whatsoever. And it shall be lawful for any person to seize hogs kept by slaves for their own use, and also all boats and canoes belonging to slaves, who, upon such seizure, are to give notice thereof to any neighboring justice of peace, who is hereby directed to proceed to sell the same in manner aforesaid ; and if the person claiming such horse, beast, hogs, boat or canoe, shall sue or prosecute the seizer or buyer of the same, the defendant or defendants in the said cause shall be at liberty to plead the general issue, and give the

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special matter and this Act in evidence; and if the plaintiff in such cause be nonsuit, or shall discontinue his action, or that a verdict pass against him, the defendant shall recover his treble costs of suit.

XXXII. *And it is hereby further enacted*, That every person who shall send any slaves with perriaguas, boats or canoes, shall give them a ticket for that purpose.

XXXIII. *And whereas*, it has some times happened, that where slaves have been convicted of offences capital or criminal, the marshals or constables have refused to execute the sentence awarded by the justices and freeholders, there being no law to compel them thereunto, so that slaves have frequently gone unpunished; *Be it therefore enacted* by the authority aforesaid, That in all cases where slaves shall be convicted of any capital or criminal offence, the marshal or any constable of the parish where such slave is tried, shall cause execution to be done on such slave or slaves, according to the direction of the justices and freeholders who tried the same. And if such marshal or constable, whom the said justices and freeholders, or a quorum of them, shall appoint for that purpose, shall refuse, he or they shall forfeit five pounds current money; to be recovered by warrant of distress, under the hands of the said two justices, or of one justice, if such alone had cognizance of the matter; which forfeiture shall go to the use of the poor of the said parish. And the said marshal or constable shall be paid for branding or cutting off the ear of each slave sentenced to that punishment, twenty shillings current money; and for whipping each slave, twenty shillings current money; to be paid by the owner, attorney or manager of any plantation to which such slave belongs. And the said marshal or constable shall have a warrant from any justice of the peace, to recover the same, if refused. And where a slave is put to death, the marshal or constable, or person who executes the same in obedience to the sentence of the justices and freeholders who tried such slave, shall receive from the public treasurer, by order drawn for that purpose by the said justices and freeholders, the sum of five pounds current money, for every slave so executed.

XXXIV. *And be it further enacted* by the authority aforesaid, That all the fines, forfeitures and penalties in this Act afore mentioned, not exceeding the sum of twenty pounds current money, and not before particularly disposed of, nor the manner of recovery before directed, nor the time before limited for commencing suit for the same, shall, from time to time, and at all times hereafter, within three months, be prosecuted, recovered, adjudged, levied and distrained for, by warrant from any one justice of the peace in this Province, as is directed by an Act for the trial of small and mean causes. And the same being so recovered, the one half shall be paid to the church-wardens or overseers of the poor, for the use of the poor of the parish where the person inhabits against whom such forfeiture or penalty is recovered, and the other half to the person or party that shall sue for the same. And all the fines, forfeitures and penalties in this Act aforementioned, exceeding the said sum of twenty pounds current money, not before particularly disposed of, nor the manner of recovery before directed, the one half shall be paid to the church-wardens or overseers of the poor of that parish where such penalty or forfeiture is recovered, for the use of the poor of the said parish, and the other half to the person or party that shall sue for the same, within six months after the default made or offence committed, by action of debt, bill, plaint or information, in any court of record in this province, wherein no *essoign*, privilege, protection, wager of law, stay of prosecution, or *non vult ulterius prosequi*, shall be allowed or admitted.

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XXXV. *And be it further enacted* by the authority aforesaid, That all owners of slaves who, at any time hereafter, shall manumit or set free any slave, for any particular merit or service, shall make provision for such slave's departure out of this Province; and every such slave who shall not depart this Province within six months after such manumission or freedom given, (being at liberty so to do,) or who shall return into this Province within seven years after such departure, shall lose the benefit of such manumission and freedom, and continue to be a slave to all intents and purposes whatsoever, to be sold by the public treasurer for the use of the public, unless such manumission be approved of and confirmed by an order of both Houses of Assembly.

XXXVI. *And whereas*, many of the slaves in this Province wear clothes much above the condition of slaves, for the procuring whereof they use sinister and evil methods; for the preventing, therefore, of such practices for the future, *Be it enacted* by the authority aforesaid, That no owner or proprietor of any negro slave or other slave whatsoever, (except livery men or boys,) shall permit or suffer such negro or other slave to have or wear any sort of apparel whatsoever, finer, other, or of greater value, than negro cloth, duffields, coarse kearsies, osnabrigs, blue linnen, checked linen or coarse garlix or calicoes, checked cottons or scotch plaids, not exceeding ten shillings per yard for the said checked cottons, scotch plaids, garlix or calico, under the pain of forfeiting all and every such apparel and garment that any person shall permit or suffer his negro or other slave to have or wear, finer, other, or of greater value than negro cloth, duffields, coarse kearsies, osnabrigs, blue linnen, checked linnen, or coarse garlix or calicoes, checked cottons or scotch plaids, as aforesaid; and all and every constable and other persons are hereby authorized, impowered and required, when and as often as they shall find any such negro slave or other slave having on or wearing any sort of garment or apparel whatsoever, finer, other, or of greater value than negro cloth, duffields, coarse kearsies, osnabrigs, blue linnen, checked linnen, or coarse garlix or calicoes, checked cottons or scotch plaids, as aforesaid, to seize and take away the same to his and their own use, benefit and behoof; any law or usage to the contrary in any wise notwithstanding; *provided always*, that if the owner of any such slave or slaves shall think the wear or apparel of his said slave not to be seizable nor liable to be taken away, any neighbouring justice of the peace is hereby authorized and impowered to determine any difference or dispute that shall happen thereupon.

XXXVII. *And be it further enacted* by the authority aforesaid, That if any owner or master of any negro or other slave shall, after the passing of this Act, suffer any negro or other slave to keep, either in their own name, or in the name or under the protection of the said owners or masters, any house or houses of entertainment or trade, shall forfeit the sum of fifty pounds, current money, to be recovered in like manner as any forfeiture by this Act above twenty pounds is directed.

XXXVIII. *And be it further enacted* by the authority aforesaid, That in case any person, being lawfully summoned to appear, or to produce his slave, before the said justices and freeholders, to give evidence against any slave accused of any crime, shall, without sufficient cause or excuse, neglect to appear, produce his slave, or refuse to give evidence, every such person shall, for every such default and offence, forfeit the sum of twenty-five pounds, current money, to be recovered by bill, plaint, or information, in any court of record in this Province, the one half of

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which is to go to his Majesty for the support of this government, and the other half to the person or party that shall sue for the same within six months after such default made or offence committed.

XXXIX. *And be it further enacted* by the authority aforesaid, That the justices and freeholders assembled in the manner hereinbefore directed, one of which justices and two freeholders, or two justices and one freeholder, agreeing in opinion, shall be deemed a quorum, and are hereby authorized and empowered to give judgment, and order the same to be put in execution, against any slave they shall find guilty of the crime or crimes whereof any such slave shall be accused, or acquit him or them thereof; which judgment shall be final.

XL. *And be it further enacted* by the authority aforesaid, That this Act, and the several matters and powers herein contained, shall be and continue in force for and during the space of three years, and from thence to the end of the next sessions of the General Assembly, and no longer.

PAUL JENYS, *Speaker.*

In the Council Chamber, the 29th March, 1735.

Assented to : ROBT. JOHNSON.

AN ACT FOR THE BETTER ORDERING AND GOVERNING NEGROES AND No. 670.
OTHER SLAVES IN THIS PROVINCE.

WHEREAS, in his Majesty's plantations in America, slavery has been introduced and allowed, and the people commonly called negroes, Indians, mulattoes and mustizoes, have been deemed absolute slaves, and the subjects of property in the hands of particular persons, the extent of whose power over such slaves ought to be settled and limited by positive laws, so that the slave may be kept in due subjection and obedience, and the owners and other persons having the care and government of slaves may be restrained from exercising too great rigour and cruelty over them, and that the public peace and order of this Province may be preserved: We pray your most sacred Majesty that it may be enacted,

Preamble.

I. *And be it enacted*, by the honorable William Bull, Esquire, Lieutenant Governor and Commander-in-chief, by and with the advice and consent of his Majesty's honorable Council, and the Commons House of Assembly of this Province, and by the authority of the same, That all negroes and Indians, (free Indians in amity with this government, and negroes, mulattoes and mustizoes, who are now free, excepted,) mulattoes or mustizoes who now are, or shall hereafter be, in this Province, and all their issue and offspring, born or to be born, shall be, and they are hereby declared to be, and remain forever hereafter, absolute slaves, and shall follow the condition of the mother, and shall be deemed, held, taken, reputed and adjudged in law, to be chattels personal, in the hands of their owners and possessors, and their executors, administrators and assigns, to all intents, constructions and purposes whatsoever; *provided always*, that if any negro, Indian, mulatto or mustizo, shall claim his or her freedom, it shall and may be lawful for such negro, Indian, mulatto or mustizo, or any

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person or persons whatsoever, on his or her behalf, to apply to the justices of his Majesty's court of common pleas, by petition or motion, either during the sitting of the said court, or before any of the justices of the same court, at any time in the vacation; and the said court, or any of the justices thereof, shall, and they are hereby fully empowered to, admit any person so applying to be guardian for any negro, Indian, mulatto or mustizo, claiming his, her or their freedom; and such guardians shall be enabled, entitled and capable in law, to bring an action of trespass in the nature of ravishment of ward, against any person who shall claim property in, or who shall be in possession of, any such negro, Indian, mulatto or mustizo; and the defendant shall and may plead the general issue on such action brought, and the special matter may and shall be given in evidence, and upon a general or special verdict found, judgment shall be given according to the very right of the cause, without having any regard to any defect in the proceedings, either in form or substance; and if judgment shall be given for the plaintiff, a special entry shall be made, declaring that the ward of the plaintiff is free, and the jury shall assess damages which the plaintiff's ward hath sustained, and the court shall give judgment, and award execution, against the defendant for such damage, with full costs of suit; but in case judgment shall be given for the defendant, the said court is hereby fully empowered to inflict such corporal punishment, not extending to life or limb, on the ward of the plaintiff, as they, in their discretion, shall think fit; *provided always*, that in any action or suit to be brought in pursuance of the direction of this Act, the burthen of the proof shall lay on the plaintiff, and it shall be always presumed that every negro, Indian, mulatto and mustizo, is a slave, unless the contrary can be made appear, the Indians in amity with this government excepted, in which case the burthen of the proof shall lye on the defendant; *provided also*, that nothing in this Act shall be construed to hinder or restrain any other court of law or equity in this Province, from determining the property of slaves, or their right of freedom, which now have cognizance or jurisdiction of the same, when the same shall happen to come in judgment before such courts, or any of them, always taking this Act for their direction therein.

II. *And be it further enacted* by the authority aforesaid, That in every action or suit to be brought by any such guardian as aforesaid, appointed pursuant to the direction of this Act, the defendant shall enter into a recognizance, with one or more sufficient sureties, to the plaintiff, in such sum as the said court of common pleas shall direct, with condition that he shall produce the ward of the plaintiff at all times when required by the said court, and that whilst such action or suit shall be depending and undetermined, the ward of the plaintiff shall not be elained, abused or misused.

III. *And for the better keeping slaves in due order and subjection, Be it further enacted* by the authority aforesaid, That no person whatsoever shall permit or suffer any slave under his or their care or management, and who lives or is employed in Charlestown, or any other town in this Province, to go out of the limits of the said town, or any such slave who lives in the country, to go out of the plantation to which such slave belongs, or in which plantation such slave is usually employed, without a letter superscribed and directed, or a ticket in the words following:

Permit this slave to be absent from Charlestown, (or any other town, or if he lives in the country, from Mr. _____ plantation, _____ parish,) for _____ days or hours; dated the _____ day of _____.

No slave to be absent from home without a ticket.

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Or to that purpose or effect; which ticket shall be signed by the master or other person having the care or charge of such slave, or by some other [person] by his or their order, directions and consent; and every slave who shall be found out of Charlestown, or any other town, (if such slave lives or is usually employed there,) or out of the plantation to which such slave belongs, or in which [such] slave is usually employed, if such slave lives in the country, without such letter or ticket as aforesaid, or without a white person in his company, shall be punished with whipping on the bare back, not exceeding twenty lashes.

IV. *And be it further enacted* by the authority aforesaid, That if any person shall presume to give a ticket or license to any slave who is the property or under the care or charge of another, without the consent or against the will of the owner or other person having charge of such slave, shall forfeit to the owner the sum of twenty pounds, current money. Penalty for unauthorizedly giving a ticket.

V. *And be it further enacted* by the authority aforesaid, That if any slave who shall be out of the house or plantation where such slave shall live, or shall be usually employed, or without some white person in company with such slave, shall refuse to submit to or undergo the examination of any white person, it shall be lawful for any such white person to pursue, apprehend, and moderately correct such slave; and if any such slave shall assault and strike such white person, such slave may be lawfully killed. Slave without ticket, how to be dealt with.

VI. *Provided always, and be it further enacted* by the authority aforesaid, That if any negro or other slave, who shall be employed in the lawful business or service of his master, owner, overseer, or other person having charge of such slave, shall be beaten, bruised, maimed or disabled by any person or persons not having sufficient cause or lawful authority for so doing, (of which cause the justices of the peace, respectively, may judge,) every person and persons so offending, shall, for every such offence, forfeit and pay the sum of forty shillings, current money, over and besides the damages hereinafter mentioned, to the use of the poor of that parish in which such offence shall be committed: And if such slave or slaves shall be maimed or disabled by such beating, from performing his or her work, such person and persons so offending, shall also forfeit and pay to the owner or owners of such slaves, the sum of fifteen shillings, current money, per diem, for every day of his lost time, and also the charge of the cure of such slave; and if the said damages, in the whole, shall not exceed the sum of twenty pounds, current money, the same shall, upon lawful proof thereof made, be recoverable before any one of his Majesty's justices of the peace, in the same way and manner as debts are recoverable by the Act for the trial of small and mean causes; and such justices before whom the same shall be recovered, shall have power to commit the offender or offenders to goal, if he, she or they shall produce no goods on which the said penalty and damages may be levied, there to remain without bail, until such penalty and damages shall be paid; any law, statute, usage or custom, to the contrary notwithstanding. Penalty for improperly beating a slave.

VII. *And be it further enacted* by the authority aforesaid, That it shall and may be lawful for every justice assigned to keep the peace in this Province, within his respective county and jurisdiction, upon his own knowledge or view, or upon information received upon oath, either to go in person, or by warrant or warrants directed to any constable or other proper person, to command to their assistance any number of persons as they shall see convenient, to disperse any assembly or meeting of slaves which may disturb the peace or endanger the safety of his Majesty's sub- Assemblages of slaves to be dispersed, their houses searched for arms, &c.

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jects, and to search all suspected places for arms, ammunition or stolen goods, and to apprehend and secure all such slaves as they shall suspect to be guilty of any crimes or offences whatsoever, and to bring them to speedy trial, according to the directions of this Act; and in case any constable or other person shall refuse to obey or execute any of the warrants or precepts of such justices, or any of them, within their several limits and precincts, or shall refuse to assist the said justices or constables, or any of them, when commanded or required, such person or persons shall forfeit and pay the sum of five pounds, current money, to be recovered by a warrant under the hand and seal of any other justice of the peace, in the same way and manner as is directed by the Act for the trial of small and mean causes.

Persons damaged in taking runaway slaves, to be remunerated.

VIII. *And be it further enacted* by the authority aforesaid, That if any person shall be maimed, wounded or disabled, in pursuing, apprehending or taking any slave that is runaway or charged with any criminal offence, or in doing any other act, matter or thing, in obedience to or in pursuance of the direction of this Act, he shall receive such reward from the public, as the General Assembly shall think fit; and if any such person shall be killed, his heirs, executors or administrators, shall receive the like reward.

How slaves to be tried for capital offences.

IX. *And whereas*, natural justice forbids that any person, of what condition soever, should be condemned unheard, and the order of civil government requires that for the due and equal administration of justice, some convenient method and form of trial should be established; *Be it therefore enacted* by the authority aforesaid, That all crimes and offences which shall be committed by slaves in this Province, and for which capital punishment shall or lawfully may be inflicted, shall be heard, examined, tried, adjudged and finally determined by any two justices assigned to keep the peace, and any number of freeholders not less than three or more than five, in the county where the offences shall be committed, and who lives in the parts adjacent, and can be most conveniently assembled; either of which justices, on complaint made or information received of any such offence committed by a slave, shall commit the offender to the safe custody of the constable of the parish where such offence shall be committed, and shall without delay, by warrant under his hand and seal, call to his assistance and request any one of the nearest justices of the peace to associate with him, and shall, by the same warrant, summon such a number of the neighboring freeholders as aforesaid, to assemble and meet together with the said justices, at a certain day and place, not exceeding three days after the apprehending of such slave or slaves; and the justices and freeholders being so assembled, shall cause the slave accused or charged, to be brought before them, and shall hear the accusation which shall be brought against such slave, and his or her defence, and shall proceed to the examination of witnesses and other evidences, and finally to hear and determine the matter brought before them, in the most summary and expeditious manner; and in case the offender shall be convicted of any crime for which by law the offender ought to suffer death, the said justices shall give judgment, and award and cause execution of their sentence to be done, by inflicting such manner of death, and at such time, as the said justices, by and with the consent of the freeholders, shall direct, and which they shall judge will be most effectual to deter others from offending in the like manner.

X. *And be it further enacted* by the authority aforesaid, That if any crime or offence not capital, shall be committed by any slave, such slave shall be proceeded against and tried for such offence in the manner herein-

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before directed, by any one justice of the peace and any two freeholders of the county where the offence shall be committed, and can be most conveniently assembled; and the said justice and freeholders shall be assembled, summoned and called together, and shall proceed upon the trial of any slave who shall commit any offence not capital, in like manner as is hereinbefore directed for trying of causes capital. And in case any slave shall be convicted before them of any offence not capital, the said one justice, by and with the consent of the said freeholders, shall give judgment for the inflicting any corporal punishment, not extending to the taking away life or member, as he and they in their discretion shall think fit, and shall award and cause execution to be done accordingly. *Provided always*, that if the said one justice and two freeholders, upon examination of any slave charged or accused before them for an offence not capital, shall find the same to be a greater offence, and may deserve death, they shall, with all convenient speed, summons and request the assistance of another justice and one or more freeholders, not exceeding three, which said justice and freeholders newly assembled, shall join with the justice and freeholders first assembled, and shall proceed in the trial, and unto final judgment and execution, if the case shall so require, in manner as is hereinbefore directed for the trial of capital offences.

XI. *And be it further enacted* by the authority aforesaid, That two justices and one freeholder, or one justice and two freeholders, of the said two justices and three freeholders, shall make a quorum, and the conviction or acquittal of any slave or slaves by such a quorum of them shall be final in all capital cases; but on the trial of slaves for offences not capital, it shall and may be sufficient if before sentence or judgment shall be given for inflicting a corporal punishment, not extending to life or member, that one justice and any one of the freeholders shall agree that the slave accused is guilty of the offence with which he shall be charged.

XII. *And be it further enacted* by the authority aforesaid, That so soon as the justice or justices and freeholders shall be assembled as aforesaid, in pursuance of the direction of this Act, the said justices shall administer to each other the following oath.

I, A B, do solemnly swear, in the presence of Almighty God, that I will truly and impartially try and adjudge the prisoner or prisoners who shall be brought before me, upon his or their trial, and honestly and duly, on my part, put in execution, on this trial, an Act entitled "An Act for the better ordering and governing negroes and other slaves in this Province," according to the best of my skill and knowledge. So help me God.

And the said justice or justices, having taken the aforesaid oath, shall immediately administer the said oath to every freeholder who shall be assembled as aforesaid, and shall forthwith proceed upon the trial of such slave or slaves as shall be brought before them.

XIII. And for the preventing the concealment of crimes and offences committed by slaves, and for the more effectual discovery and bringing slaves to condign punishment, *Be it further enacted* by the authority aforesaid, That not only the evidence of all free Indians, without oath, but the evidence of any slave, without oath, shall be allowed and admitted in all causes whatsoever, for or against another slave accused of any crime or offence whatsoever; the weight of which evidence being seriously considered, and compared with all other circumstances attending the case, shall be left to the conscience of the justices and freeholders.

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And free negroes.

XIV. *And whereas*, slaves may be harbored and encouraged to commit offences, and concealed and received by free negroes, and such free negroes may escape the punishment due to their crimes, for want of sufficient and legal evidence against them; *Be it therefore further enacted* by the authority aforesaid, That the evidence of any free Indian or slave, without oath, shall in like manner be allowed and admitted in all cases against any free negroes, Indians (free Indians in amity with this government, only excepted,) mulattoe or mustizoe; and all crimes and offences committed by free negroes, Indians, (except as before excepted,) mulattoes or mustizoes, shall be proceeded in, heard, tried, adjudged and determined by the justices and freeholders appointed by this Act for the trial of slaves, in like manner, order and form, as is hereby directed and appointed for the proceedings and trial of crimes and offences committed by slaves; any law, statute, usage or custom to the contrary notwithstanding.

Slaves guilty of felony, to suffer death.

XV. *And be it further enacted and declared* by the authority aforesaid, That if any slave in this Province shall commit any crime or offence whatsoever, which, by the laws of England or of this Province now in force, is or has been made felony without the benefit of the clergy, and for which the offender by law ought to suffer death, every such slave, being duly convicted according to the directions of this Act, shall suffer death; to be inflicted in such manner as the justices, by and with the advice and consent of the freeholders, who shall give judgment on the conviction of such slave, shall direct and appoint.

Certain crimes declared felony.

XVI. *And whereas*, some crimes and offences of an enormous nature and of the most pernicious consequence, may be committed by slaves, as well as other persons, which being peculiar to the condition and situation of this Province, could not fall within the provision of the laws of England; *Be it therefore enacted* by the authority aforesaid, That the several crimes and offences hereinafter particularly enumerated, are hereby declared to be felony, without the benefit of the clergy, that is to say:—if any slave, free negro, mulattoe, Indian or mustizoe, shall wilfully and maliciously burn or destroy any stack of rice, corn or other grain, of the product, growth or manufacture of this Province, or shall wilfully and maliciously set fire to, burn or destroy any tar kiln, barrels of pitch, tar, turpentine or rosin, or any other the goods or commodities of the growth, produce or manufacture of this Province, or shall feloniously steal, take or carry away any slave, being the property of another, with intent to carry such slave out of this Province, or shall wilfully or maliciously poison or administer any poison to any person, free man, woman, servant or slave, every such slave, free negro, mulattoe, Indian, (except as before excepted,) and mustizoe, shall suffer death as a felon.

Homicide and insurrection, how to be punished

XVII. *And be it further enacted* by the authority aforesaid, That any slave who shall be guilty of homicide of any sort, upon any white person, except by misadventure, or in defence of his master or other person under whose care and government such slave shall be, shall, upon conviction thereof as aforesaid, suffer death; and every slave who shall raise or attempt to raise an insurrection in this Province, shall endeavor to delude or entice any slave to run away and leave this Province, every such slave and slaves, and his and their accomplices, aiders and abettors, shall, upon conviction as aforesaid, suffer death; *Provided always*, that it shall and may be lawful to and for the justices who shall pronounce sentence against such slaves, by and with the advice and consent of the freeholders as aforesaid, if several slaves shall receive sentence at one time, to mitigate and alter the sentence of any

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slave other than such as shall be convicted of the homicide of a white person, who they shall think may deserve mercy, and may inflict such corporal punishment, (other than death,) on any such slave, as they in their discretion shall think fit; any thing herein contained to the contrary thereof in any wise notwithstanding; *Provided always*, that one or more of the said slaves who shall be convicted of the crimes or offences aforesaid, where several are concerned, shall be executed for example, to deter others from offending in the like kind.

XVIII. And to the end that owners of slaves may not be tempted to conceal the crimes of their slaves to the prejudice of the public, *Be it further enacted* by the authority aforesaid, That in case any slave shall be put to death in pursuance of the sentence of the justices and freeholders aforesaid, (except slaves guilty of murder, and slaves taken in actual rebellion,) the said justices, or one of them, with the advice and consent of any two of the freeholders, shall, before they award and order their sentence to be executed, appraise and value the said negroes so to be put to death, at any sum not exceeding two hundred pounds current money, and shall certify such appraisement to the public treasurer of this Province, who is hereby authorized and required to pay the same; one moiety thereof, at least, to the owner of such slave or to his order, and the other moiety, or such part thereof as such justices and freeholders shall direct, to the person injured by such offence for which such slave shall suffer death. Compensation to owners of slaves executed.

XIX. *And be it further enacted* by the authority aforesaid, That the said justices, or any of them, are hereby authorized, empowered and required, to summons and compel all persons whatsoever, to appear and to give evidence upon the trial of any slave; and if any person shall neglect or refuse to appear, or appearing, shall refuse to give evidence, or if any master or other person who has the care and government of any slave, shall prevent or hinder any slave under his charge or government, from appearing or giving evidence in any matter depending before the justices and freeholders aforesaid, the said justices may, and they are hereby fully empowered and required to, bind every such person offending as aforesaid, by recognizance with one or more sufficient sureties, to appear at the next general sessions, to answer such their offences and contempt; and for default of finding sureties, to commit such offender to prison. Justices may compel persons to give evidence.

XX. *And be it further enacted* by the authority aforesaid, That in case the master or other person having charge or government of any slave who shall be accused of any capital crime, shall conceal or convey away any such slave, so that he cannot be brought to trial and condign punishment, every master or other person so offending, shall forfeit the sum of two hundred and fifty pounds current money, if such slave be accused of a capital crime as aforesaid; but if such slave shall be accused of a crime not capital, then such master or other person shall only forfeit the sum of fifty pounds current money. Penalty for concealing accused slave.

XXI. *And be it further enacted* by the authority aforesaid, That all and every the constable and constables in the several parishes within this Province where any slave shall be sentenced to suffer death or other punishment, shall cause execution to be done of all the orders, warrants, precepts and judgments of the justices hereby appointed to try such slaves; for the charge and trouble of which the said constable or constables, respectively, shall be paid by the public treasurer of this Province, upon a certificate produced under the hands of the said justice or justices before whom such negroes or slaves shall be tried; unless in such cases as shall appear to the Constables to execute or punish slaves, and their fees.

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said justices and freeholders to be malicious or groundless prosecutions, in which cases the said charges shall be paid by the prosecutors; for whipping or other corporal punishments not extending to life, the sum of twenty shillings; and for any punishment extending to life, the sum of five pounds current money; and such other charges for keeping and maintaining such slaves, as are allowed to the warden of the work house in Charlestown, for keeping and maintaining any slave committed to his custody; for the levying of which charges against the prosecutor, the justice or justices are hereby empowered to issue their warrant. And that no delay may happen in causing execution to be done upon such offending slave or slaves, the constable who shall be directed to cause execution to be done, shall be, and is hereby, empowered to press one or more slave or slaves, in or near the place where such whipping or corporal punishment shall be ordered to be inflicted, to whip or inflict such other corporal punishment upon the offender or offenders; and such slave or slaves so pressed, shall be obedient to and observe the orders and directions of the constable in and about the premises, upon pain of being punished by the said constable, by whipping on the bare back, not exceeding twenty lashes, which punishment the said constable is hereby authorized and empowered to inflict; and the constable shall, if he presses a negro, pay the said negro five shillings out of his fee for doing the said execution.

Penalty for
working on
Sunday.

XXII. *And be it further enacted* by the authority aforesaid, That if any person in this Province shall, on the Lord's day, commonly called Sunday, employ any slave in any work or labour, (works of absolute necessity and the necessary occasions of the family only excepted,) every person in such case offending, shall forfeit the sum of five pounds, current money, for every slave they shall so work or labour.

Slave not to
carry fire-arms
without a
ticket.

XXIII. *And be it further enacted* by the authority aforesaid, That it shall not be lawful for any slave, unless in the presence of some white person, to carry or make use of fire arms, or any offensive weapons whatsoever, unless such negro or slave shall have a ticket or license, in writing, from his master, mistress or overseer, to hunt and kill game, cattle, or mischievous birds, or beasts of prey, and that such license be renewed once every month, or unless there be some white person of the age of sixteen years or upwards, in the company of such slave, when he is hunting or shooting, or that such slave be actually carrying his master's arms to or from his master's plantation, by a special ticket for that purpose, or unless such slave be found in the day time actually keeping off rice birds, or other birds, within the plantation to which such slave belongs, lodging the same gun at night within the dwelling house of his master, mistress or white overseer; and *provided also*, that no negro or other slave shall have liberty to carry any gun, cutlass, pistol or other weapon, abroad from home, at any time between Saturday evening after sun-set, and Monday morning before sunrise, notwithstanding a license or ticket for so doing. And in case any person shall find any slave using or carrying fire arms, or other offensive weapons, contrary to the true intention of this Act, every such person may lawfully seize and take away such fire arms or offensive weapons. But before the property of such goods shall be vested in the person who shall seize the same, such person shall, within forty-eight hours next after such seizure, go before the next justice of the peace, and shall make oath of the manner of the taking; and if such justice of the peace, after such oath shall be made, or if, upon any other examination, he shall be satisfied that

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the said fire arms or other offensive weapons shall have been seized according to the direction and agreeable to the true intent and meaning of this Act, the said justice shall, by certificate under his hand and seal, declare them forfeited, and that the property is lawfully vested in the person who seized the same: *Provided always*, that no such certificate shall be granted by any justice of the peace, until the owner or owners of such fire arms or other offensive weapons so to be seized as aforesaid, or the overseer or overseers who shall or may have the charge of such slave or slaves from whom such fire arms or other offensive weapons shall be taken or seized, shall be duly summoned, to shew cause, if any such they have, why the same should not be condemned as forfeited, or until forty-eight hours after the service of such summons, and oath made of the service of such summons before the said justice.

XXIV. *And be it further enacted* by the authority aforesaid, That if any slave shall presume to strike any white person, such slave, upon trial and conviction before the justice or justices and freeholders, aforesaid, according to the directions of this Act, shall, for the first and second offence, suffer such punishment as the said justice and freeholders, or such of them as are empowered to try such offences, shall, in their discretion, think fit, not extending to life or limb; and for the third offence, shall suffer death. But in case any such slave shall grievously wound, maim or bruise any white person, though it be only the first offence, such slave shall suffer death. *Provided always*, that such striking, wounding, maiming or bruising, be not done by the command, and in the defence of, the person or property of the owner or other person having the care and government of such slave, in which case the slave shall be wholly excused, and the owner or other person having the care and government of such slave shall be answerable, as far as by law he ought.

Slaves who strike a white person, how to be dealt with.

XXV. *And be it further enacted* by the authority aforesaid, That it shall and may be lawful for every person in this Province, to take, apprehend and secure any runaway or fugitive slave, and they are hereby directed and required to send such slave to the master or other person having the care or government of such slave, if the person taking up or securing such slave knows, or can, without difficulty, be informed, to whom such slave shall belong; but if not known or discovered, then such slave shall be sent, carried or delivered into the custody of the warden of the work-house in Charlestown; and the master or other person who has the care or government of such slave, shall pay for taking up such slave, whether by a free person or slave, the sum of twenty shillings, current money; and the warden of the work-house, upon receipt of every fugitive or runaway slave, is hereby directed and required to keep such slave in safe custody until such slave shall be lawfully discharged, and shall, as soon as conveniently it may be, publish, in the weekly gazette, such slave, with the best descriptions he shall be able to give, first carefully viewing and examining such slave, naked to the waist, for any mark or brand, which he shall also publish, to the intent the owner or other person who shall have the care and charge of such slave, may come to the knowledge that such slave is in custody. And if such slave shall make escape through the negligence of the warden of the work-house, and cannot be taken within three months, the said warden of the work-house shall answer to the owner for the value of such slave, or the damage which the owner shall sustain by reason of such escape, as the case shall happen.

Runaway slaves taken up, how to be disposed of.

XXVI. *And be it further enacted* by the authority aforesaid, That the

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Duty of warden.

said warden of the work-house shall, at the charge of the owner of such slave, provide sufficient food, drink, clothing and covering, for every slave delivered into his custody, and shall keep them to moderate labour, and advertize them in the gazette, in the manner aforesaid, and on failure thereof, shall forfeit all his fees due for such slave; and the said warden is hereby directed and required to cause every such slave delivered into his custody as a runaway, upon receipt of such slave, to be whipped on the bare back, not exceeding twenty lashes; and on failure thereof, shall forfeit all his fees due for such slave.

Proceedings
when apprehended runaway slave is delivered to warden, &c.

XXVII. *And be it further enacted by the authority aforesaid, That any person who shall take up any runaway slave, and shall deliver such slave either to the master or other person having the care or charge of such slave, or to the warden of the work-house, shall be entitled to receive from the owner or warden of the work-house, upon the delivery, fifteen pence, current money, per mile, for every mile such slave shall have been brought or sent, to be computed from the place where such slave was apprehended. And if such slave shall be delivered into the custody of the warden aforesaid, the person delivering such slave shall give an account of his name, place of abode, and the time and place when and where such slave was apprehended; which account the said warden shall enter down in a book to be kept for that purpose, and shall give a receipt for any such slave which shall be delivered, as aforesaid, into his custody. And the said warden is hereby fully authorized and empowered to demand and receive from the owner or other person having the charge or care of any such slave, for negroes committed from the month of October to March, inclusive, for finding necessaries, clothing and covering, to be the property of the master, any sum not exceeding six pounds, and the several sums following, and no other sum, fee or reward, on any pretence whatsoever, (that is to say,) for apprehending each slave, paid to the person who delivered such slave in custody, twenty shillings, current money; for mileage, paid to the same person, fifteen pence, like money; for a sufficient quantity of provision for each day, for each slave, three shillings and nine pence, like money; for advertising and publishing every slave, as directed by this Act, five shillings, like money, exclusive of the charge of printing; for receiving such slave, five shillings, and for delivering of him, five shillings, like money; for poundage on money advanced, one shilling in the pound, like money. And the said warden shall and may lawfully detain any slave in custody until the fees and expenses aforesaid be fully paid and satisfied; and in case the owner of such slave, or his overseer, manager, agent, attorney, or trustee, shall neglect or refuse to pay and satisfy the said fees and expenses, for the space of thirty days after the same shall be demanded by notice, in writing, served on the owner of such slave, or (if the owner is absent from this Province,) upon his overseer, agent, manager, attorney or trustee, the said warden shall and may expose any such slave to sale, at public outcry, and after deducting the fees and expenses aforesaid, and the charges of such sale, shall, upon demand, return the overplus money arising by such sale, to any person who has a right to demand and receive the same.*

XXVIII. *And forasmuch as for want of knowing or finding the owner of any fugitive slave to be delivered to him, as aforesaid, the said warden may not be obliged to keep such slave in his custody, and find and provide provisions for such slave, over and beyond a reasonable time, Be it therefore further enacted by the authority aforesaid, That if the owner or owners of such fugitive slave shall not, within the space of eighteen months from the*

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time of commitment, make his, her or their claim or claims, or it shall not be otherwise made known to the said warden, within the time aforesaid, to whom such committed slave shall belong, it shall and may be lawful for the said warden to sell such slave at public outcry, in Charlestown, he the said warden first advertising such sale six weeks successively in the public gazette, together with the reason of the sale of such slave, and out of the money arising by such sale, to pay, deduct or retain to himself what shall be then due for money by him disbursed on receipt of such fugitive slave, and for his fees and provisions, together with the reasonable charges arising by such sale, and the overplus money, (if any there shall be,) shall be rendered and paid by the said warden to the public treasurer for the time being, in trust, nevertheless, for the use of the owner or owners of such slave, provided the same be claimed by him, her or them within one year and a day after such sale, or in default of such claim, within the time aforesaid, to the use of the public of this Province, to be applied as the General Assembly shall direct.

Slaves in custody 18 months, to be sold.

XXIX. *And be it further enacted* by the authority aforesaid, That if any free negro, mulatto or mustizo, or any slave, shall harbour, conceal or entertain any slave that shall run away or shall be charged or accused with any criminal matter, every free negro, mulatto and mustizo, and every slave, who shall harbour, conceal or entertain any such slave, being duly convicted thereof, according to the directions of this Act, if a slave, shall suffer such corporal punishment, not extending to life or limb, as the justice or justices who shall try such slave shall, in his or their discretion, think fit; and if a free negro, mulatto or mustizo, shall forfeit the sum of ten pounds, current money, for the first day, and twenty shillings for every day after, to the use of the owner or owners of such slave so to be harboured, concealed or entertained, as aforesaid, to be recovered by warrant, under the hand and seal of any one of his Majesty's justices of the peace, in and for the county where such slave shall be so harboured, concealed or entertained, in like manner as debts are directed to be recovered by the Act for trial of small and mean causes; and that in case such forfeitures cannot be levied, or such free negroes, mulattoes or mustizoes shall not pay the same, together with the charges attending the prosecution, such free negro, mulatto or mustizo shall be ordered by the said justice to be sold at public outcry, and the money arising by such sale shall, in the first place, be paid and applied for and towards the forfeiture due, made payable to the owner or owners, and the charges attending the prosecution and sale, and the overplus, (if any,) shall be paid by the said justice into the hands of the public treasurer, to be afterwards paid and applied in such manner as by the General Assembly of this Province shall be directed and appointed.

Penalty on free negroes or slaves for harbouring runaways.

XXX. *And be it further enacted* by the authority aforesaid, That no slave who shall dwell, reside, inhabit or be usually employed in Charlestown, shall presume to buy, sell, deal, traffic, barter, exchange or use commerce for any goods, wares, provisions, grain, victuals, or commodities, of any sort or kind whatsoever, (except as is hereinafter particularly excepted and provided, and under such provisos, conditions, restrictions and limitations as are herein particularly directed, limited and appointed,) on pain that all such goods, wares, provisions, grain, victuals or commodities, which by any slave shall be so bought, sold, dealt, trafficked or bartered for, exchanged or used in commerce, shall be seized and forfeited, and shall be sued for and recovered before any one justice assigned to keep the peace in Charlestown, and shall be applied and disposed of, one half to him or them who shall seize,

Slaves in Charlestown not to buy or sell, except as provided.

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inform and sue for the same, and the other half to the commissioners of the poor of the parish of St. Philips, Charlestown; and moreover, that the said justice shall order every slave who shall be convicted of such offence, to be publicly whipped on the bare back, not exceeding twenty lashes; *provided always*, that it shall and may be lawful for any slave who lives or is usually employed in Charlestown, after such license and ticket as hereinafter is directed shall be obtained, to buy or sell fruit, fish and garden stuff, and to be employed as porters, carters or fishermen, and to purchase any thing for the use of their masters, owners, or other person who shall have the charge and government of such slave, in open market, under such regulations as are or shall be appointed by law concerning the market of Charlestown, or in any open shop kept by a white person.

XXXI. *And be it further enacted* by the authority aforesaid, That no slave or slaves whatsoever, belonging to Charlestown, shall be permitted to buy any thing to sell again, or to sell any thing upon their own account, in Charlestown; and it shall and may be lawful for any person or persons whosever, to seize and take away all and all manner of goods, wares or merchandize, that shall be found in the possession of any such slave or slaves in Charlestown, which they have bought to sell again, or which they shall offer to sale upon their own accounts, in Charlestown, one half of which shall be to the use of the poor of the said parish, and the other to the informer, and shall be adjudged and condemned by any justice of the peace in the said parish.

No strong
liquors to be
sold to slaves.

XXXII. *And be it further enacted* by the authority aforesaid, That if any keeper of a tavern or punch house, or retailer of strong liquors, shall give, sell, utter or deliver to any slave, any beer, ale, cider, wine, rum, brandy, or other spirituous liquors, or strong liquor whatsoever, without the license or consent of the owner, or such other person who shall have the care or government of such slave, every person so offending shall forfeit the sum of five pounds, current money, for the first offence, and for the second offence, ten pounds; and shall be bound in a recognizance in the sum of one hundred pounds, current money, with one or more sufficient sureties, before any of the justices of the court of general sessions, not to offend in the like kind, and to be of good behaviour, for one year; and for want of such sufficient sureties, to be committed to prison without bail or mainprize, for any term not exceeding three months.

Slaves not to
work from
home without
a ticket.

XXXIII. *And whereas*, several owners of slaves do suffer their slaves to go and work where they please, upon conditions of paying to their owners certain sums of money agreed upon between the owner and slave; which practice has occasioned such slaves to pilfer and steal, to raise money for their owners, as well as to maintain themselves in drunkenness and evil courses; for prevention of which practices for the future, *Be it enacted* by the authority aforesaid, That no owner, master or mistress of any slave, after the passing of this Act, shall permit or suffer any of his, her or their slaves to go and work out of their respective houses or families, without a ticket in writing, under pain of forfeiting the sum of ten pounds, current money, for every such offence, to be paid the one half to the church-wardens of the parish, for the use of the poor of the parish in which the offence is committed, and the other half to him or them that will inform and sue for the same, to be recovered in the same way as debts are by the Act for the trial of small and mean causes. And every person employing any slave without a ticket from the owner of such slave, shall forfeit to the informer five pounds, current money, for each day he so employs such

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slave, over and above the wages agreed to be paid such slave for his work ; *provided* that the said penalty of five pounds per diem, shall not extend to any person whose property in such slave is disputable ; and *provided*, that nothing herein contained shall hinder any person or persons from hiring out by the year, week or day, or any other time, any negroes or slaves, to be under the care and direction of his or their owner, master or employer, and that the master is to receive the whole of the earnings of such slave or slaves, and that the employer have a certificate or note, in writing, of the time or terms of such slave's employment, from the owner, attorney or overseer of every such slave, severally and respectively.

XXXIV. And *whereas*, several owners of slaves have permitted them to keep canoes, and to breed and raise horses, neat cattle and hogs, and to traffic and barter in several parts of this Province, for the particular and peculiar benefit of such slaves, by which means they have not only an opportunity of receiving and concealing stolen goods, but to plot and confederate together, and form conspiracies dangerous to the peace and safety of the whole Province ; *Be it therefore enacted* by the authority aforesaid, That it shall not be lawful for any slave so to buy, sell, trade, traffic, deal or barter for any goods or commodities, (except as before excepted,) nor shall any slave be permitted to keep any boat, perriauger or canoe, or to raise and breed, for the use and benefit of such slave, any horses, mares, neat cattle, sheep or hogs, under pain of forfeiting all the goods and commodities which shall be so bought, sold, traded, trafficked, dealt or bartered for, by any slave, and of all the boats, perriaugers or canoes, cattle, sheep or hogs, which any slave shall keep, raise or breed for the peculiar use, benefit and profit of such slave ; and it shall and may be lawful for any person or persons whatsoever, to seize and take away from any slave, all such goods, commodities, boats, perriaugers, canoes, horses, mares, neat cattle, sheep or hogs, and to deliver the same into the hands of any one of his Majesty's justices of the peace, nearest to the place where the seizure shall be made ; and such justice shall take the oath of such person who shall make any such seizure, concerning the manner of seizing and taking the same, and if the said justice shall be satisfied that such seizure hath been made according to the directions of this Act, he shall pronounce and declare the goods so seized, to be forfeited, and shall order the same to be sold at public outcry ; and the monies arising by such sale shall be disposed of and applied as is hereinafter directed ; *provided*, that if any goods shall be seized which come to the possession of any slave by theft, finding or otherwise, without the knowledge, privity, consent or connivance of the person who have a right to the property or lawful custody of any such goods, all such goods shall be restored, on such person's making oath before any justice as aforesaid, who is hereby empowered to administer such oath, to the effect or in the following words :

Slaves prohibited from trading, or keeping boats, horses, cattle, &c.

" I, A B, do sincerely swear, that I have a just and lawful right or title to certain goods seized and taken by C D, out of the possession of a slave named — ; and I do sincerely swear and declare, that I did not, directly or indirectly, permit or suffer the said slave, or any other slave whatsoever, to use, keep or employ the said goods for the use, benefit or profit of any slave whatsoever, or to sell, barter or give away the same ; but that the same goods were in the possession of the said slave by theft, finding or otherwise, or to be kept bona fide for my use, or for the use of E F, a free person, and not for the use or benefit of any slave whatsoever. So help me God."

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Which oath shall be taken *mutatis mutandis*, as the case shall happen; *provided also*, that it shall be lawful for any person, being the owner or having the care or government of any slave who resides or is usually employed in any part of this Province, without the limits of Charlestown, to give a license or permission to sell, exchange or barter in Charlestown, or elsewhere, within this Province, the goods or commodities of the owner, or other person having the care or government of such slave; *provided* that in such license or permission, the quantity and quality of the goods and commodities with which such slave shall be intrusted, be particularly and distinctly set down and specified, and signed by the owner or other person having the charge and government of such slave, or by some other person by his, her or their order and direction.

Slaves allowed
to buy and sell
provisions, &c.
with a ticket.

XXXV. *Provided also, and be it enacted* by the authority aforesaid, That this Act shall not extend or be construed to extend to debar any of the inhabitants of Charlestown from sending any of their slaves residing therein, to sell in open market, any sort of provisions whatever, which the owner of such slave shall have received and brought from his or her estate in the country, to be sold at the first hand; nor shall such slaves be debarred from buying any kind of provisions for the use and consumption of their master's and mistress's families, and for which such slave or slaves shall have a license or permit from the master or mistress, or some other person under whose care such slave shall be; any thing in this, or any other Act, to the contrary notwithstanding.

Slaves not to
be absent from
home without
a ticket, nor to
keep arms,
horns, &c.

XXXVI. And for that as it is absolutely necessary to the safety of this Province, that all due care be taken to restrain the wanderings and meetings of negroes and other slaves, at all times, and more especially on Saturday nights, Sundays, and other holidays, and their using and carrying wooden swords, and other mischievous and dangerous weapons, or using or keeping of drums, horns, or other loud instruments, which may call together or give sign or notice to one another of their wicked designs and purposes; and that all masters, overseers and others may be enjoined, diligently and carefully to prevent the same, *Be it enacted* by the authority aforesaid, That it shall be lawful for all masters, overseers and other persons whomsoever, to apprehend and take up any negro or other slave that shall be found out of the plantation of his or their master or owner, at any time, especially on Saturday nights, Sundays, or other holidays, not being on lawful business, and with a letter from their master, or a ticket, or not having a white person with them; and the said negro or other slave or slaves, met or found out of the plantation of his or their master or mistress, though with a letter or ticket, if he or they be armed with such offensive weapons aforesaid, him or them to disarm, take up and whip: And whatsoever master, owner or overseer shall permit or suffer his or their negro or other slave or slaves, at any time hereafter, to beat drums, blow horns, or use any other loud instruments, or whosoever shall suffer and countenance any public meeting or feasting of strange negroes or slaves in their plantations, shall forfeit ten pounds, current money, for every such offence, upon conviction or proof as aforesaid; *provided*, an information or other suit be commenced within one month after forfeiture thereof for the same.

XXXVII. And *whereas*, cruelty is not only highly unbecoming those who profess themselves christians, but is odious in the eyes of all men who have any sense of virtue or humanity; therefore, to restrain and prevent barbarity being exercised towards slaves, *Be it enacted* by the

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authority aforesaid, That if any person or persons whosoever, shall wilfully murder his own slave, or the slave of any other person, every such person shall, upon conviction thereof, forfeit and pay the sum of seven hundred pounds, current money, and shall be rendered, and is hereby declared altogether and forever incapable of holding, exercising, enjoying or receiving the profits of any office, place or employment, civil or military, within this Province: And in case any such person shall not be able to pay the penalty and forfeitures hereby inflicted and imposed, every such person shall be sent to any of the frontier garrisons of this Province, or committed to the work house in Charlestown, there to remain for the space of seven years, and to serve or to be kept at hard labor. And in case the slave murdered shall be the property of any other person than the offender, the pay usually allowed by the public to the soldiers of such garrison, or the profits of the labor of the offender, if committed to the work house in Charlestown, shall be paid to the owner of the slave murdered. And if any person shall, on a sudden heat or passion, or by undue correction, kill his own slave, or the slave of any other person, he shall forfeit the sum of three hundred and fifty pounds, current money. And in case any person or persons shall wilfully cut out the tongue, put out the eye, castrate, or cruelly scald, burn, or deprive any slave of any limb or member, or shall inflict any other cruel punishment, other than by whipping or beating with a horse-whip, cow-skin, switch or small stick, or by putting irons on, or confining or imprisoning such slave, every such person shall, for every such offence, forfeit the sum of one hundred pounds, current money.

Penalty for
killing or
cruelly using a
slave.

XXXVIII. *And be it further enacted* by the authority aforesaid, That in case any person in this Province, who shall be owner, or shall have the care, government or charge of any slave or slaves, shall deny, neglect or refuse to allow such slave or slaves, under his or her charge, sufficient cloathing, covering or food, it shall and may be lawful for any person or persons, on behalf of such slave or slaves, to make complaint to the next neighboring justice, in the parish where such slave or slaves live or are usually employed; and if there shall be no justice in the parish, then to the next justice in the nearest parish; and the said justice shall summons the party against whom such complaint shall be made, and shall enquire of, hear and determine the same; and if the said justice shall find the said complaint to be true, or that such person will not exculpate or clear himself from the charge, by his or her own oath, which such person shall be at liberty to do, in all cases where positive proof is not given of the offence, such justice shall and may make such orders upon the same, for the relief of such slave or slaves, as he in his discretion shall think fit, and shall and may set and impose a fine or penalty on any person who shall offend in the premises, in any sum not exceeding twenty pounds, current money, for each offence, to be levied by warrant of distress and sale of the offender's goods, returning the overplus, if any shall be; which penalty shall be paid to the church-wardens of the parish where the offence shall be committed, for the use of the poor of the said parish.

Slaves to be
provided with
sufficient clo-
athing and food.

XXXIX. *And whereas*, by reason of the extent and distance of plantations in this Province, the inhabitants are far removed from each other, and many cruelties may be committed on slaves, because no white person may be present to give evidence of the same, unless some method be provided for the better discovery of such offences; and as slaves are under the government, so they ought to be under the protection, of masters and managers of plantations; *Be it therefore further enacted* by the authority afore-

In case of cru-
elty to slave,
the owner how
to be dealt
with.

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said, That if any slave shall suffer in life, limb or member, or shall be maimed, beaten or abused, contrary to the directions and true intent and meaning of this Act, when no white person shall be present, or being present, shall neglect or refuse to give evidence, or be examined upon oath, concerning the same, in every such case, the owner or other person who shall have the care and government of such slave, and in whose possession or power such slave shall be, shall be deemed, taken, reputed and adjudged to be guilty of such offence, and shall be proceeded against accordingly, without further proof, unless such owner or other person as aforesaid, can make the contrary appear by good and sufficient evidence, or shall by his own oath, clear and exculpate himself; which oath, every court where such offence shall be tried, is hereby empowered to administer, and to acquit the offender accordingly, if clear proof of the offence be not made by two witnesses at least; any law, usage or custom to the contrary notwithstanding.

Apparel of
slaves regulat-
ed.

XL. And *whereas*, many of the slaves in this Province wear clothes much above the condition of slaves, for the procuring whereof they use sinister and evil methods: For the prevention, therefore, of such practices for the future, *Be it enacted* by the authority aforesaid, That no owner or proprietor of any negro slave, or other slave, (except livery men and boys,) shall permit or suffer such negro or other slave, to have or wear any sort of apparel whatsoever, finer, other, or of greater value than negro cloth, duffils, kerseys, osnabrigs, blue linen, check linen or coarse garlix, or calicoes, checked cottons, or Scotch plaids, under the pain of forfeiting all and every such apparel and garment, that any person shall permit or suffer his negro or other slave to have or wear, finer, other or of greater value than negro cloth, duffils, coarse kerseys, osnabrigs, blue linen, check linen or coarse garlix or calicoes, checked cottons or Scotch plaids, as aforesaid; and all and every constable and other persons are hereby authorized, empowered and required, when and as often as they shall find any such negro slave, or other slave, having on or wearing any sort of garment or apparel whatsoever, finer, other or of greater value than negro cloth, duffils, coarse kerseys, osnabrigs, blue linen, check linen, or coarse garlix, or calicoes, checked cottons or Scotch plaids, as aforesaid, to seize and take away the same, to his or their own use, benefit and behoof; any law, usage or custom to the contrary notwithstanding. *Provided always*, that if any owner of any such slave or slaves, shall think the garment or apparel of his said slave not liable to forfeiture, or to be taken away by virtue of this Act, he may apply to any neighboring justice of the peace, who is hereby authorized and empowered to determine any difference or dispute that shall happen thereupon, according to the true intent and meaning of this Act.

Guns not to be
unnecessarily
fired in the
night time.

XLI. And *whereas*, an ill custom has prevailed in this Province, of firing guns in the night time; for the prevention thereof for the future, *Be it enacted* by the authority aforesaid, That if any person shall fire or shoot off any gun or pistol in the night time, after dark and before day-light, without necessity, every such person shall forfeit the sum of forty shillings, current money, for each gun so fired as aforesaid, to be recovered by warrant from any one justice of the peace for the county where the offence is committed, according to the direction of the Act for the trial of small and mean causes, and shall be paid to the church-wardens of the parish where the offence shall be committed, for the use of the poor of the said parish.

XLII. And *be it further enacted* by the authority aforesaid, That no slave or slaves shall be permitted to rent or hire any house, room, store or

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plantation, on his or her own account, or to be used or occupied by any slave or slaves; and any person or persons who shall let or hire any house, room, store or plantation, to any slave or slaves, or to any free person, to be occupied by any slave or slave, every such person so offending shall forfeit and pay to the informer the sum of twenty pounds, current money, to be recovered as in the Act for the trial of small and mean causes.

Slaves not to
rent houses or
plantations.

XLIII. And *whereas*, it may be attended with ill consequences to permit a great number of slaves to travel together in the high roads without some white person in company with them; *Be it therefore enacted* by the authority aforesaid, That no men slaves exceeding seven in number, shall hereafter be permitted to travel together in any high road in this Province, without some white person with them; and it shall and may be lawful for any person or persons, who shall see any men slaves exceeding seven in number, without some white person with them as aforesaid, travelling or assembled together in any high road, to apprehend all and every such slaves, and shall and may whip them, not exceeding twenty lashes on the bare back.

Nor to travel
the highways
in numbers.

XLIV. And *whereas*, many owners of slaves, and others who have the care, management and overseeing of slaves, do confine them so closely to hard labor, that they have not sufficient time for natural rest; *Be it therefore enacted* by the authority aforesaid, That if any owner of slaves, or other person who shall have the care, management or overseeing of any slaves, shall work or put to labor any such slave or slaves, more than fifteen hours in four and twenty hours, from the twenty-fifth day of March to the twenty-fifth day of September, or more than fourteen hours in four and twenty hours, from the twenty-fifth day of September to the twenty-fifth day of March, every such person shall forfeit any sum not exceeding twenty pounds, nor under five pounds, current money, for every time he, she or they shall offend herein, at the discretion of the justice before whom such complaint shall be made.

Nor to be over-
worked.

XLV. And *whereas*, the having of slaves taught to write, or suffering them to be employed in writing, may be attended with great inconveniences; *Be it therefore enacted* by the authority aforesaid, That all and every person and persons whatsoever, who shall hereafter teach, or cause any slave or slaves to be taught, to write, or shall use or employ any slave as a scribe in any manner of writing whatsoever, hereafter taught to write, every such person and persons, shall, for every such offence, forfeit the sum of one hundred pounds current money.

Nor taught to
write.

XLVI. And *whereas*, plantations settled with slaves without any white person thereon, may be harbours for runaways and fugitive slaves; *Be it therefore enacted* by the authority aforesaid, That no person or persons hereafter shall keep any slaves on any plantation or settlement, without having a white person on such plantation or settlement, under pain of forfeiting the sum of ten pounds current money, for every month which any such person shall so keep any slaves on any plantation or settlement, without a white person as aforesaid.

No person to
keep slaves on
a plantation
without a white
person with
them.

XLVII. And *whereas*, many disobedient and evil minded negroes and other slaves, being the property of his Majesty's subjects of this Province, have lately deserted the service of their owners, and have fled to St. Augustine and other places in Florida, in hopes of being there received and protected; and *whereas*, many other slaves have attempted to follow the same evil and pernicious example, which, (unless timely prevented,) may tend to the very great loss and prejudice of the inhabitants of this Province; *Be it therefore enacted* by the authority aforesaid, That from and after the

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Reward for apprehending slaves escaped beyond the Savannah.

passing of this Act, any white person or persons, free Indian or Indians, who shall, on the south side of Savannah river, take and secure, and shall from thence bring to the work house in Charlestown, any negroes or other slaves, which within the space of six months have deserted, or who shall hereafter desert, from the services of their owners or employers, every such white person or persons, free Indian or Indians, on evidence of the said slaves being taken as aforesaid, and the same certified by any two justices of the peace in this Province, shall be paid by the public treasurer of this Province the several rates and sums following, as the case shall appear to be; *provided always*, that nothing in this clause contained shall extend to such slaves as shall desert from any plantation situate within thirty miles of the said Savannah river, unless such slaves last mentioned shall be found on the south side of Altamahaw river; that is to say:—for each grown man slave brought alive, the sum of fifty pounds; for every grown woman or boy slave above the age of twelve years brought alive, the sum of twenty five pounds; for every negro child under the age of twelve years, brought alive, the sum of five pounds; for every scalp of a grown negro slave, with the two ears, twenty pounds; and for every negro grown slave, found on the south side of St. John's river, and brought alive as aforesaid, the sum of one hundred pounds; and for every scalp of a grown negro slave with the two ears, taken on the south side of St. John's river, the sum of fifty pounds.

How to be paid, &c.

XLVIII. *And be it further enacted* by the authority aforesaid, That the expense of taking and securing all slaves brought alive as aforesaid, shall be at the charge of the respective owners; and no such slave or slaves taken on the south side of Savannah river, and brought to the work house of Charlestown, as aforesaid, shall be delivered out of the custody of the warden of the said work house, without a certificate to him first produced, from the public treasurer of this Province, that the money by him disbursed, for the taking and securing the said slave or slaves, is fully satisfied to the treasurer, besides the following fees, which the said treasurer is hereby required to allow, pay and charge for the trouble necessary to be taken concerning the place and manner of apprehending the said slaves, viz:—to the two justices who shall examine, take and certify the said evidence, for each slave brought alive, the sum of forty shillings; and to the treasurer for his trouble in executing this Act, for each slave brought alive as aforesaid, the sum of twenty shillings; and to the warden of the work house, the sum of three shillings and nine pence per diem, for his maintaining the same while in custody. And on the commitment of any slave or slaves to the custody of the said warden, where the public treasurer shall, by virtue of this Act, expend any money for apprehending the same, the said warden is hereby required to advertise in the public gazette of this Province for the space of three months, the best description he can form of all and every the said slaves, with the place and manner of their being taken; and in case the owner or employer of the said slave or slaves, shall neglect within that time, to redeem the said slave or slaves, by fully satisfying the public treasurer the charges he shall be at, in such manner and proportion as by this Act is directed, then, and in every such case, the said public treasurer shall be at liberty to dispose of every such slave or slaves to the best bidder at public auction, which sale shall be deemed good and effectual, to all intents and purposes, to such person or persons as shall purchase the same; and the produce of every such slave or slaves, shall first go towards satisfying the expense of the said public treasurer and warden of

Acts relating to Slaves.

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the work house, for the taking, securing and keeping the said slave or slaves, as aforesaid; and then the surplus, (if any,) shall be paid to the respective owner or owners.

XLIX. *And be it further enacted* by the authority aforesaid, That from and after the passing of this Act, where any slave or slaves shall be tried and condemned to be executed for deserting out of this Province, every such slave or slaves shall, before their execution, be valued by the tryers of the same; and in every such case the owner or owners of every such slave, shall be paid by the public of this Province, the full sum and rates at which such executed slave or slaves shall be valued as aforesaid, without being a charge to any particular owner or owners; any law, usage or custom to the contrary notwithstanding.

Compensation
to owners of
slaves execu-
ted.

L. *And be it further enacted* by the authority aforesaid, That all charge of taking and bringing in of slaves as aforesaid, shall be defrayed and paid by the public.

LI. *And be it further enacted* by the authority aforesaid, That if any constable or other person, directed or required to do or perform any matter or thing, required, commanded or enjoined by this Act, who shall know or be credibly informed of any offence which shall be committed against this Act, within his parish, precinct or limits, and shall not give information thereof to some justice of the peace, and endeavor the conviction of the offenders according to his duty, but such constable or other person as aforesaid, or any person lawfully called in aid of the constable or such other person as aforesaid, shall wilfully and willingly omit the performance of his duty in the execution of this Act, and shall be thereof convicted, he shall forfeit for every such offence, the sum of twenty pounds current money. And in case any justice of the peace, warden of the work house, or freeholder, shall wilfully or willingly omit the performance of his duty in the execution of this Act, every such justice of the peace and warden of the work house, shall forfeit the sum of forty pounds current money; and every such freeholder shall forfeit the sum of fifteen pounds current money; which several penalties shall be recovered and disposed of as hereafter is directed; and moreover, the judges and justices of the court of general sessions or the peace, oyer and terminer, assize and general gaol delivery, are hereby commanded and required to give the offenders against this Act in charge in open court; and all grand juries, justices of the peace, constables, and other officers, are hereby required to make due and true presentment of such of the said offences as come to their knowledge.

Penalty on persons failing to carry this Act into execution.

LII. *And be it further enacted* by the authority aforesaid, That if any person shall be at any time sued for putting in execution any of the powers contained in this Act, such person shall and may plead the general issue, and give the special matter and this Act in evidence; and if the plaintiff be nonsuit, or a verdict pass for the defendant, or if the plaintiff discontinue his action, or enter a *noli prosequi*, or if upon demurrer judgment be given for the defendant, every such defendant shall have his full double costs.

Persons sued for putting this Act into execution, may plead the general issue.

LIII. *And be it further enacted* by the authority aforesaid, That this Act, and all clauses therein contained, shall be construed most largely and beneficially for the promoting and carrying into execution this Act, and for the encouragement and justification of all persons to be employed in the execution thereof; and that no record, warrant, process or commitment to be made by virtue of this Act, or the proceedings thereupon, shall be reversed, avoided, or any way impeached, by reason of any default in form.

This Act, how to be construed.

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Acts relating to Slaves.

Penalties and forfeitures, how to be recovered and applied.

LIV. *And be it further enacted* by the authority aforesaid, That all fines, penalties and forfeitures imposed or inflicted by this Act, which are not hereby particularly disposed of, or the manner of recovery directed, shall, if not exceeding the value of twenty pounds current money, be recovered, levied and distrained for, by warrant from any one justice of the peace, in the county or precinct where such offence shall be committed, according to the Act for the trial of small and mean causes; and in case such fine, penalty or forfeiture shall exceed the value of twenty pounds current money, the same shall be recovered by action of debt, bill, plaint or information, in any court of record in this Province, wherein no privilege, protection,essoign, wager of law, or *non vult ulterius prosequi*, or any more than one imparlance, shall be admitted or allowed; and all the said fines, penalties and forfeitures, which shall be recovered by this Act, and are not before particularly disposed of, shall be applied and disposed of, one half to his majesty, his heirs and successors, to be applied by the General Assembly for the use of this Province, and the other half to him or them who will sue or inform for the same.

LV. *And be it further enacted* by the authority aforesaid, That his Majesty's part of the fines, penalties and forfeitures which shall be recovered by virtue of this Act, shall be paid into the hands of the justices, or in the court where the same shall be recovered, who shall make a memorial and record of the payment of the same, and shall, without delay, send a transcript of such memorial or record to the public treasurer of this Province, from the said courts or justices who shall receive his Majesty's part of such fines and forfeitures; which memorial shall be a charge on the judges or justices respectively to whom the same shall be paid; and the public treasurer of this Province for the time being, shall and may, and he is hereby authorized and empowered to, levy and recover the same by warrant of distress, and sale of the goods and chattels of the said judges or justices respectively, who shall be charged with the same, in case they or any of them shall neglect or refuse to make such memorial or record as aforesaid, or send such transcript thereof, as before directed, or shall neglect or refuse to pay the same over to the treasurer within twenty days after the receipt of the same; *Provided always*, that no person shall be prosecuted for any fine, forfeiture or penalty imposed by this Act, unless such prosecution shall be commenced within six months after the offence shall be committed.

The late rebellion.

LVI. *And whereas*, several negroes did lately rise in rebellion, and did commit many barbarous murders at Stono and other parts adjacent thereto; and *whereas*, in suppressing the said rebels, several of them were killed and others taken alive and executed; and as the exigence and danger the inhabitants at that time were in and exposed to, would not admit of the formality of a legal trial of such rebellious negroes, but for their own security, the said inhabitants were obliged to put such negroes to immediate death; to prevent, therefore, any person or persons being questioned for any matter or thing done in the suppression or execution of the said rebellious negroes, as also any litigious suit, action or prosecution that may be brought, sued or prosecuted or commenced against such person or persons for or concerning the same; *Be it enacted* by the authority aforesaid, That all and every act, matter and thing, had, done, committed and executed, in and about the suppressing and putting all and every the said negro and negroes to death, is and are hereby declared lawful, to all intents and purposes whatsoever, as fully and amply as if such rebellious negroes had undergone a formal trial

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and condemnation, notwithstanding any want of form or omission whatever in the trial of such negroes; and any law, usage or custom to the contrary thereof in any wise notwithstanding.

LVII. *And be it further enacted* by the authority aforesaid, That this Act shall be deemed a public Act, and shall be taken notice of without pleading the same before all judges, justices, magistrates and courts within this Province.

LVIII. *And be it further enacted* by the authority aforesaid, That this Act shall continue in force for the space of three years, and from thence to the end of the next session of the General Assembly, and no longer.

C. PINCKNEY, *Speaker.*

In the Council Chamber, the 10th day of May, 1740.

Assented to :

WM. BULL.

AN ACT FOR THE BETTER SECURITY OF THIS PROVINCE AGAINST THE No. 702.

INSURRECTIONS AND OTHER WICKED ATTEMPTS OF NEGROES AND OTHER SLAVES; AND FOR REVIVING AND CONTINUING AN ACT OF THE GENERAL ASSEMBLY OF THIS PROVINCE, ENTITLED "AN ACT FOR THE BETTER ORDERING AND GOVERNING NEGROES AND OTHER SLAVES IN THIS PROVINCE."

WHEREAS, it is necessary to make some further provision for securing the inhabitants of this Province against the insurrections and other wicked attempts of negroes and other slaves within the same; we therefore humbly pray his most sacred Majesty that it may be enacted;

I. *And be it enacted* by the honorable 'William Bull, Esq., Lieutenant Governor and Commander-in-Chief in and over his Majesty's Province of South Carolina, by and with the advice and consent of his Majesty's honorable Council, and the Commons House of Assembly of this Province, and by the authority of the same, That within three months from the time of passing this Act, every white male inhabitant of this Province, (except travellers and such persons as shall be above sixty years of age,) who, by the laws of this Province is or shall be liable to bear arms in the militia of this Province, either in times of alarm or at common musters, who shall, on any Sunday or Christmas day in the year, go and resort to any church or any other public place of divine worship within this Province, and shall not carry with him a gun or a pair of horse pistols, in good order and fit for service, with at least six charges of gun-powder and ball, and shall not carry the same into the church or other place of divine worship as aforesaid, every such person shall forfeit and pay the sum of twenty shillings, current money, for every neglect of the same, the one half thereof to the church-wardens of the respective parish in which the offence shall be committed, for the use of the poor of the said parish, and the other half to him or them who will inform for the same, to be recovered on oath, before any of his Majesty's justices of the peace within this Province, in the same way

The citizens to go armed to church.

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and manner that debts under twenty pounds are directed to be recovered by the Act for the trial of small and mean causes.

Proviso as to
Charleston.

II. *Provided, and be it further enacted*, That nothing hereinbefore contained shall be construed to extend to persons living within the parish of St. Philip's, Charlestown; but in lieu thereof, the whole watch of Charlestown, aforesaid, shall be obliged to perform watch and ward under arms, during divine service, in the same manner as a part only of the said watch are now by law enjoined to do, and for which a pay or additional allowance of ten pounds per annum shall be given to every man of the said watch, to be paid by an assessment on the inhabitants of Charlestown, according to the method already laid down for the payment of the said watch.

Duty of church
wardens, deacons,
&c.

III. And to the intent that this Act may be more duly carried into execution, by which the inhabitants of this Province may be the better secured and provided against the insurrections and other wicked attempts of negroes and other slaves, *Be it further enacted* by the authority aforesaid, That the church-warden and church-wardens of each respective parish, and the deacon or deacons, and elder or elders, or either of them, resorting to other places of public worship in this Province, (excepting the places of public worship within the parish of St. Philip's, Charlestown,) who shall be at any such church, or other place of public worship, as aforesaid, where any person liable to bear arms, as aforesaid, shall come and resort without his gun or pair of horse pistols and ammunition, as aforesaid, and such church-warden or church-wardens, deacon or deacons, elder or elders, who shall wilfully neglect, after having notice of the offence, to inform against such person so offending against this Act, in order to recover the penalty, as aforesaid, every such church-warden or church-wardens, deacon or deacons, elder or elders, who shall happen to be at such church or other place of divine worship as aforesaid, when such offence against this Act shall be committed, and who shall wilfully neglect, after having notice of the offence, to inform as aforesaid, within twenty days next after such offence committed, shall forfeit and pay, for every such neglect, to any person who will inform for the same within five days next after the expiration of the said twenty days, the sum of twenty shillings, current money of the Province aforesaid, for every person so offending as aforesaid, to be recovered as aforesaid.

Penalty for neglect.

IV. *And be it further enacted* by the authority aforesaid, That in case any person or persons, as aforesaid, liable to bear arms, as aforesaid, being at such church or other place of divine worship, as aforesaid, who shall refuse or neglect, on demand of the said church-warden or church-wardens, deacon or deacons, elder or elders, respectively, (or in case none such shall be present, then on demand of any commissioned officer of the militia in this Province,) to produce and shew his gun or pair of horse pistols and ammunition, required so to be brought with such person and persons, as aforesaid, to the intent it may be known whether the same are fit for immediate use and service, every such person so refusing or neglecting to produce and shew the same, shall, for every such offence, forfeit and pay the sum of twenty shillings, current money, to be recovered, paid and applied in the same way and manner, and to the same uses, as the first forfeiture in this Act mentioned is directed to be recovered, paid and applied.

V. *And whereas*, an Act of the General Assembly of this Province, entitled "An Act for the better ordering and governing negroes and other slaves in this Province," which hath been found to be a wholesome and beneficial law, is near expiring; *Be it therefore enacted* by the authority

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aforesaid, that the said Act entitled "An Act for the better ordering and governing negroes and other slaves in this Province," passed the tenth day of May, in the year of our Lord one thousand seven hundred and forty, be, and is hereby declared to be, revived, continued and enacted to be of full force and virtue for and during and unto the full end and term of three years after the passing of this Act, and from thence to the end of the next session of the General Assembly, and no longer; and this Act, and every matter and thing herein contained, shall continue and be of force for the same time, and no longer.

Act of 1740 re-
vived and con-
tinued.

BENJ. WHITAKER, *Speaker.*

In the Council Chamber, the 7th day of May, 1743.

Assented to :

WILLIAM BULL.

AN ACT FOR GIVING FREEDOM TO A NEGRO MAN NAMED ARRAH, No. 754.

LATE A SLAVE BELONGING TO MR. HUGH CARTWRIGHT; AND TO CONFIRM THE FREEDOM OF ALL NEGROES AND OTHERS WHO HAVE BEEN OR SHALL BE SLAVES TO ANY OF THE INHABITANTS OF THIS PROVINCE, THAT ALREADY HAVE, OR SHALL HEREAFTER, HAVING BEEN TAKEN, MAKE THEIR ESCAPE FROM HIS MAJESTY'S ENEMIES, AND RETURN TO THIS PROVINCE.

WHEREAS, a negro man named Arrah, late a slave, belonging to Mr. Hugh Cartwright, of this Province, hath, by his humble petition to the General Assembly, set forth, that on the thirteenth day of April, in the year of our Lord one thousand seven hundred and forty-five, he, the said Arrah, was taken prisoner by a French privateer sloop, of Cape Roman, in a schooner belonging to the said Hugh Cartwright; and that great encouragement was offered to be given him by the enemy if he would join with them against the English, and assist them as a pilot for the Carolina coast, but he refusing to accept their offer, was sold as a slave to a French merchant at Porto Rico, from whence he found means to make his escape, and returned to this Province; and humbly praying that the premises being considered, such relief might be granted to the petitioner as should seem most meet: And forasmuch as it is doubtful whether the property in the said negro man Arrah, was entirely altered by his being taken and sold as a slave by the enemy, at Porto Rico aforesaid; and whereas, his returning to this Province was his own act, out of fidelity to the English: To the intent, therefore, that as well the said negro man Arrah, as all other negroes, and others, who have been or shall be slaves to any of the inhabitants of this Province, and have made or shall make their escape from his Majesty's enemies after being taken by them, may not be molested after their return to this Province—we humbly pray your most sacred Majesty that it may be enacted,

I. *And be it enacted*, by his Excellency James Glen, Esquire, Governor-in-chief and Captain-general, in and over his Majesty's Province of South Carolina, by and with the advice and consent of his Majesty's

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honorable Council, and the Assembly of this Province, and by the authority of the same, That the said negro man named Arrah, and all other negroes and others, who have been or shall be slaves to any of the inhabitants of this Province, that already have made or hereafter shall make their escape from his Majesty's enemies, after having been taken by them, and return to this Province, he, they, and every of them, shall forever after be deemed and taken as free negroes; and he, they, and every of them, shall be, and are hereby, enfranchised and forever delivered and discharged from the yoke of slavery, to all intents and purposes whatsoever; any law, usage or custom, to the contrary thereof in any wise notwithstanding.

II. And *whereas*, the said negro man Arrah did return to this Province before the passing any law giving freedom to slaves returning under such circumstances, and as the giving freedom to Arrah in particular may be of great service to the public, and as it is not reasonable the expense of such service should be wholly borne by the said Hugh Cartwright, *Be it further enacted* by the authority aforesaid, That there shall be paid out of the public treasury of this Province, to the said Hugh Cartwright, the sum of two hundred and fifty pounds, current money, in lieu and full satisfaction for the said negro man Arrah.

III. *And be it further enacted* by the authority aforesaid, That this Act shall be deemed a public Act, and all courts in this Province are to take notice of the same without special pleading.

HENRY MIDDLETON, *Speaker.*

In the Council Chamber, the 13th day of June, 1747.

Assented to: JAMES GLEN.

No. 790. AN ADDITIONAL AND EXPLANATORY ACT TO AN ACT OF THE GENERAL ASSEMBLY OF THIS PROVINCE, ENTITLED "AN ACT FOR THE BETTER ORDERING AND GOVERNING NEGROES AND OTHER SLAVES IN THIS PROVINCE;" AND FOR CONTINUING SUCH PART OF THE SAID ACT AS IS NOT ALTERED OR AMENDED BY THIS PRESENT ACT, FOR THE TERM THEREIN MENTIONED.

Preamble.

WHEREAS, the Act entitled "An Act for the better ordering and governing negroes and other slaves in this Province," is in many parts insufficient to answer the purposes for which the same was designed, many further regulations being necessary to be made for those purposes: We therefore humbly pray his most sacred Majesty that it may be enacted,

Duty of patrol
as to appre-

I. *And be it enacted*, by his Excellency James Glen, Esquire, Governor-in-chief and Captain-general in and over the Province of South Carolina, by and with the advice and consent of his Majesty's honorable Council, and the House of Assembly of the said Province, and by the authority of the same, That in case any commander of a patrol, or any commission officer of the militia, in this Province, shall, at any time hereafter, receive information that any fugitive or runaway slaves that have been out thirty days, or longer, are met together at any place, to the number of three, or

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more, such commander of the patrol or commission officer of the militia, shall be obliged, and he and they is and are hereby obliged, enjoined, and required, with all convenient speed, to summon a party of the men under his or their command, respectively, and with them forthwith to go in search of, and to take or disperse, such fugitive or runaway slaves; and if such fugitives or runaways shall refuse to stand or submit to be taken, it shall and may be lawful for such party to fire upon them, or any of them; and if any such fugitive or runaway slave or slaves shall happen to be killed by such party, then any three freeholders of the neighborhood, being first duly sworn by the next justice for that purpose, are hereby impowered to ascertain the damages sustained by the owner or owners of such slave or slaves so killed, and to certify the same under their hands, or the hands of a majority of them, to the public treasurer for the time being, who shall pay such damages to the owner or owners of such slave or slaves, out of the public treasury; *provided*, that the damages so to be ascertained shall not exceed the value of forty pounds, proclamation money, for any one fugitive or runaway slave. And if any such fugitive or runaway slave or slaves, shall happen to be wounded, maimed or disabled by such party, the damages may in like manner be ascertained and certified by three freeholders, as aforesaid, which shall be paid to the owner or owners of such wounded, maimed or disabled slave or slaves, out of the public treasury, as aforesaid. And in case the commander of any patrol, or commission officer of the militia, after having received information of fugitive or runaway slaves being got together as aforesaid, shall neglect or refuse, by the space of three days, to summon a party of men, and go in pursuit of such fugitives or runaways, as is herein before directed, every such commander of the patrol and commission officer, shall forfeit the sum of ten pounds, current money, for every such offence, to be recovered and applied as is hereinafter directed. And in case any of the men summoned to be of such party shall neglect or refuse to attend at the time and place appointed for that purpose by such commander of the patrol or commission officer of the militia, or after attending, shall refuse or neglect to go in pursuit of such fugitive or runaway slaves, every such offender shall forfeit the sum of five pounds, current money, for every such offence, to be recovered and applied as is hereinafter directed.

II. And for the encouragement of such as shall go in pursuit of fugitive or runaway slaves as aforesaid, *Be it further enacted* by the authority aforesaid, That there shall be paid the sum of five pounds, current money, for every slave apprehended or taken by any party of the patrol or militia as aforesaid, by the owner or owners of such fugitive or runaway slaves, which may be recovered by warrant from any justice of the peace for the county.

Reward.

III. *And be it further enacted* by the authority aforesaid, That it shall and may be lawful to and for any white person or persons, to apprehend any notorious fugitive slave that shall have been runaway for the space of twelve months, or upward. And in case such fugitive slave cannot be otherwise taken, it shall be lawful for any such white person or persons, to kill such notorious runaway; any law, usage or custom, to the contrary thereof in any wise notwithstanding. And the damages sustained by the owner of such runaway, shall and may be ascertained and certified in the manner herein before directed, which shall be paid out of the public treasury, as aforesaid; *provided*, that such damages shall not exceed the sum of thirty pounds, proclamation money.

Any citizen
may apprehend
a notorious
runaway.

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No slave to
carry fire-arms
beyond his
master's clear-
ed lands.

IV. *And be it further enacted* by the authority aforesaid, That it shall not be lawful for any slave, on any pretence whatever, to carry a gun or any other fire arm, with ammunition, to hunt, or for any other purpose, without the cleared lands of the master or owner of such slave, under pain of being whipt, not exceeding twenty stripes. And it shall and may be lawful to and for any white person or persons whatsoever, to seize, take away, and keep, to his and their own proper use, any gun or other fire arm which he or they shall find in the possession of any slave, without the cleared lands of the master or owner of such slave; any former law, usage of custom, to the contrary thereof notwithstanding; *provided*, that such person shall, within ten days, produce such gun or fire arm to a magistrate, and make oath that they were taken from a slave or slaves, in pursuance of the direction of this Act.

No free negro
to lend arms to
a slave.

V. *And be it further enacted* by the authority aforesaid, That in case any free negro, mulatto or mestizo, shall lend any arms, of any kind whatever, to any slave or slaves, all and every such arms shall be, and are hereby declared to be, forfeited to the use of such person or persons as shall discover the same; provided that proof be made as aforesaid. And moreover, every such free negro, mulatto or mestizo so offending, shall forfeit and pay the sum of five pounds, current money, for every such offence, to the informer or informers, to be recovered by warrant from any justice of the peace for the county where the offence shall be committed. And in case such offender shall neglect or refuse to pay the said forfeiture forthwith, such justice of the peace shall order corporal punishment to be inflicted upon such offender, not exceeding twenty stripes.

One slave beat-
ing another.

VI. *And be it further enacted* by the authority aforesaid, That in case any slave shall beat or wilfully maim or wound the slave of another person, so that the master or owner of such beaten, maimed or wounded slave shall be deprived of his or her service or labour, for any term or time whatsoever, the master or owner of the slave offending, shall be, and he or she is hereby, obliged and required to make satisfaction to the person injured, for the damages sustained thereby; *provided*, that the same shall not exceed the value of four pounds, proclamation money; which damages shall and may be recovered in the same manner as debts are recoverable by the Act for the trial of small and mean causes.

Poisoning.

VII. *And whereas*, the detestable crime of poisoning hath of late been frequently committed by many slaves in this Province, and notwithstanding the execution of several criminals for that offence, yet it has not been sufficient to deter others from being guilty of the same; *Be it therefore enacted* by the authority aforesaid, That not only such negroes, mulattoes and mestizoes, whether free or bond, as shall administer poison to any person or persons, whether free or bond, but also all and every negro, mulatto and mestizo, whether free or bond, who shall furnish, procure or convey any poison to any slave or slaves, to be administered to any person or persons as aforesaid, and also all such negroes, mulattoes and mestizoes, whether free or bond, as shall be privy (and not reveal the same,) to the administering of any poison to any person or persons as aforesaid, or be privy (and not reveal the same,) to the furnishing, procuring or conveying any poison to be administered to any person or persons as aforesaid, shall be deemed and adjudged, and all and every of them are hereby declared to be, felons, and shall suffer death, in such manner as the persons appointed and empowered by the Act for the better ordering and governing negroes and other slaves in this Province, for trial of slaves, shall adjudge and determine.

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VIII. And for the encouragement of slaves to make discovery of the designs of others to poison any person, *Be it further enacted* by the authority aforesaid, That every negro, mulatto or mestizo, whether free or bond, who shall hereafter give information of the intention of any other slave to poison any person, or of any slave that had furnished, procured or conveyed any poison to be administered to any person, shall, upon conviction of the offender or offenders, be entitled to and receive a reward of four pounds, proclamation money, out of the public treasury of this Province, to be drawn for by the justices before whom such offender or offenders shall be tried: *Provided always nevertheless*, that no slave shall be convicted upon the bare information of another slave, unless poison shall be found upon the party or parties accused, or some other circumstance or overt act appear by which such information shall be corroborated.

Reward to informer.

IX. *And provided also, and be it further enacted* by the authority aforesaid, That in case any slave shall be convicted of having given false information, whereby any other slave may have suffered wrongfully, every such false informer shall be liable to and suffer the same punishment as was inflicted upon the party accused; any law, usage or custom to the contrary notwithstanding.

Punishment for false information.

X. *And be it further enacted* by the authority aforesaid, That in case any slave shall teach or instruct another slave in the knowledge of any poisonous root, plant, herb, or other sort of poison whatever, he or she, so offending, shall, upon conviction thereof, suffer death as a felon; and the slave or slaves so taught or instructed, shall suffer such punishment (not extending to life or limb,) as shall be adjudged and determined by the justices and freeholders, or a majority of them, before whom such slave or slaves shall be tried.

And for teaching to poison.

XI. And to prevent, as much as may be, all slaves from attaining the knowledge of any mineral or vegetable poison, *Be it further enacted* by the authority aforesaid, That it shall not be lawful for any physician, apothecary or druggist, at any time hereafter, to employ any slave or slaves in the shops or places where they keep their medicines or drugs, under pain of forfeiting the sum of twenty pounds, proclamation money, for every such offence, to be recovered and applied as is hereinafter directed.

No negro to be employed by an apothecary

XII. *And be it further enacted* by the authority aforesaid, That no negroes or other slaves (commonly called doctors,) shall hereafter be suffered or permitted to administer any medicine, or pretended medicine, to any other slave, but at the instance or by the direction of some white person; and in case any negro or other slave shall offend herein, he shall, upon complaint and proof thereof made to any justice of the peace for the county, suffer corporal punishment, not exceeding fifty stripes.

Negro doctors prohibited.

XIII. *And be it further enacted* by the authority aforesaid, That it shall not be lawful for any negro or other slave to sell any rice or Indian corn out of Charlestown, to any person whoever, other than their master or mistress. And in case any person or persons whosoever, out of Charlestown, shall purchase of any negro or slave belonging to another person, any rice or Indian corn, without the consent of his master, he, she or they shall forfeit the sum of forty shillings, proclamation money, besides the rice and corn so bought, for every such offence, to be recovered and applied as is hereinafter directed.

Negroes not to deal in rice or corn.

XIV. And *whereas*, by the seventeenth paragraph of the said Act, entitled "An Act for the better ordering and governing negroes and other slaves in this Province," it is (among other things therein contained,) enacted that

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others to run
away.

every slave who shall endeavor to delude or intice any slave to run away and leave this Province, shall, upon conviction, suffer death; which is a punishment too great for the nature of the offence, as such offender might afterwards alter his intention; *Be it therefore enacted* by the authority aforesaid, That such part of the said paragraph as relates only to slaves endeavoring to delude or intice other slaves to run away and leave this Province, shall not operate or take effect, unless it shall appear that such slave (so endeavoring to delude or entice other slaves to run away and leave this Province,) shall have actually prepared provisions, arms, ammunition, horse or horses, or any boat, canoe or other vessel, whereby such their intentions shall be manifested; any thing in the said Act to the contrary thereof, in any wise, notwithstanding: *Provided always*, as in the said seventeenth paragraph of the said Act is provided.

Compensation
to owners of
slaves execu-
ted.

XV. *And be it further enacted* by the authority aforesaid, That in case any slave or slaves shall hereafter be put to death for any crime or crimes whatever, the justices, or one of them, with the advice and consent of any two of the freeholders who shall try such slave or slaves, shall, before they award and order their sentence to be executed, appraise and value the said slave or slaves so to be put to death, at any sum not exceeding forty pounds, proclamation money, for any one slave; and shall certify such appraisement to the public treasurer of this Province, who is hereby authorized and required to pay the same; one moiety thereof, at least, to the owner, and the other moiety, or such part thereof as such justices and freeholders shall direct, to the person or persons injured by the offence for which such slave or slaves shall suffer death; any thing contained in the said Act to the contrary thereof in any wise notwithstanding.

Provision for
lunatic slaves.

XVI. *And whereas*, there is not any provision made by the said Act for the subsistence of slaves that may become lunatic, belonging to poor persons who may be unable to provide for the maintenance of such lunatic slaves, or to keep them so confined as to prevent their doing mischief. *Be it therefore enacted* by the authority aforesaid, That in case any slave belonging to a poor person in any parish in this Province, hath or shall hereafter become lunatic, it shall and may be lawful to and for any justice of the peace for the county where such lunatic slave may be, and such justice shall be, and he is hereby, required and enjoined, upon the first notice thereof, to cause such lunatic to be secured in some convenient place in the parish where such lunatic may be, as well to prevent his or her doing any mischief, as for the better subsisting such lunatic slave. And the charge and expense of keeping and maintaining such lunatic, shall be borne and defrayed by the inhabitants of the parish, respectively, where the same may happen; and such charge and expense shall be assessed, levied and collected, in the same way and manner, and by the same persons, as the poor tax is directed to be assessed, levied and collected, in and by an Act of the General Assembly, entitled "An Act for the better relief of the poor of this Province," passed the twelfth day of December, one thousand seven hundred and twelve. And the persons appointed by the said Act to collect the poor tax, are hereby vested with all the powers and authorities for the assessing, levying and collecting the expense for keeping and maintaining lunatic slaves, as are given by the said Act for the assessing, levying and collecting the taxes for the relief of the poor.

XVII. *And whereas*, slaves which run away and lie out for a considerable space of time, at length become desperate, and stand upon their defence with knives, weapons or arms; therefore, in order to encourage all persons whatever, to hazard themselves in endeavoring to apprehend or secure any

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such runaway or outlier, *Be it further enacted* by the authority aforesaid, That if any person shall, at any time hereafter, apprehend and secure any slave who shall have been runaway from his master or owner, for at least the space of six months, and who shall endeavor to defend himself with a knife, sword, cutlass, gun, pistol, or other weapon, such person, being a white man, shall, over and above the reward provided by law, in case of his being maimed, wounded or disabled, be entitled to a reward of twenty pounds current money, from the master or owner of the said slave. And if such person be a slave himself, he shall be entitled to a reward of ten pounds current money, in like manner; which reward shall be recovered by warrant, from any justice of the peace, upon oath made of the fact before him.

Reward for apprehending runaways.

XVIII. And *whereas*, upon the trials of slaves in this Province, it hath sometimes happened, that certain circumstances have attended the facts upon such trials, as would have induced the justices and freeholders to have mitigated the punishment, but being strictly bound by the letter of the law, such slaves have suffered death. *Be it therefore enacted* by the authority aforesaid, That in all and every trial hereafter, for any offence committed by any negro or other slave, against the said recited Act, or against this present Act, it shall and may be lawful to and for the justices and freeholders, upon such trial, or a majority of them, to mitigate the punishment to be inflicted upon the offender, in all and every case where any favorable circumstance shall appear and induce them to be of opinion that such punishment ought to be mitigated; any thing in the said recited Act, or in this present Act, to the contrary thereof in any wise notwithstanding.

Punishment mitigated, in certain cases.

XIX. And *be it further enacted* by the authority aforesaid, That all the fines, penalties and forfeitures, imposed or inflicted by this Act, not exceeding twenty pounds current money, shall and may be sued for and recovered in the same way and manner as by the Act for the trial of small and mean causes is appointed and directed. And such fines, penalties and forfeitures as shall exceed the sum of twenty pounds current money, shall and may be sued for and recovered by action of debt, bill, plaint or information, in any court of record in this Province, wherein no privilege, protection, essoign or wager of law, shall be allowed or admitted, nor any more than one imparlance; and shall be applied, one half to the use of his Majesty, his heirs and successors, to be disposed of as by the General Assembly shall be directed, and the other half to him or them who will inform and sue for the same.

Fines and forfeitures, how to be recovered and applied.

XX. And *be it further enacted* by the authority aforesaid, That this Act shall be deemed a public Act, and as such, shall be taken notice of by all judges, justices, magistrates and courts in this Province, without pleading the same.

This a public Act.

XXI. And *be it further enacted* by the authority aforesaid, That this Act, and such part of the said Act entitled "An Act for the better ordering and governing negroes and other slaves in this Province," as is not altered or amended by this present Act, shall be and continue of full force and virtue, for and during the full end and term of seven years, and from thence to the end of the then next session of the General Assembly.

Its duration.

ANDREW RUTLEDGE, *Speaker.*

In the Council Chamber, the 17th May, 1751.

Assented to: JAMES GLEN.

A.D. 1754.

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No. 822. AN ACT TO PREVENT THE INVEIGLING, STEALING AND CARRYING AWAY NEGROES AND OTHER SLAVES IN THIS PROVINCE; AND TO PREVENT THE CARRYING AWAY OF SCHOONERS OR PETTIAUGARS; AND ALSO, FOR REPEALING SO MUCH OF AN ACT ENTITLED "AN ACT FOR THE BETTER ORDERING AND GOVERNING OF NEGROES AND OTHER SLAVES IN THIS PROVINCE," AS RELATES TO THE TIME WITHIN WHICH OFFENDERS THAT ARE APPREHENDED SHALL BE TRIED; AND GIVING THE JUSTICES AND FREEHOLDERS A POWER TO POSTPONE THE TRIAL OF SUCH OFFENDERS.

Preamble.

WHEREAS, by the laws of this Province, negroes and other slaves are deemed to be chattels personal, and are, in every respect, as much the property of their owners, as any other goods or chattels are; and *whereas*, no punishment can be inflicted by the laws now in force upon persons inveigling, stealing and carrying away any such slaves from their lawful owners or employers, that is adequate to so great and growing an evil; and *whereas*, the inhabitants of this Province are liable to and receive great injustice and damage by such unwarrantable and pernicious practices and wicked proceedings; therefore, to prevent and punish, as much as may be, such evil, we humbly pray your most sacred Majesty that it may be enacted,

Stealing
slaves made
felony.

I *And be it enacted* by his Excellency, James Glen, Esquire, Governor-in-chief and Captain General, in and over his Majesty's Province of South Carolina, by and with the advice and consent of his Majesty's council, and the House of Assembly of the said Province, and by the authority of the same, That from and immediately after the twenty-fourth day of June next, all and every person and persons, who shall inveigle, steal and carry away any negro or other slave or slaves, or shall hire, aid or counsel any person or persons to inveigle, steal or carry away, as aforesaid, any such slave, so as the owner or employer of such slave or slaves shall be deprived of the use and benefit of such slave or slaves, or that shall aid any such slave in running away or departing from his master's or employer's service, shall be, and he, she and they is and are hereby declared to be, guilty of felony; and being thereof convicted or attainted by verdict or confession, or being indicted thereof shall stand mute, or will not directly answer to the indictment, or will peremptorily challenge above the number of twenty of the jury, shall suffer death as felons, and be excluded and debarred of the benefit of clergy.

Also carrying
away schoo-
ners or petti-
augars.

II. *And whereas*, several of the inhabitants of this Province, owners of schooners and pettiaugars, are under a necessity of employing others as patrons and masters in the navigation thereof, and are liable to receive great prejudice by the wilful and felonious carrying away such schooners and pettiaugars, by the person or persons to whose care and management the same are entrusted; *Be it therefore enacted* by the authority aforesaid, That all and every person or persons, that shall, after the passing of this Act, carry away any schooner or pettiangar committed to his or their care and management, fraudulently, and with the intention to steal or deprive the owner of the property of the same, from any part of this Province to any other part thereof or elsewhere, whereby the owner of such schooner or pettiangar shall be deprived of them or any of them, or the use and benefit of them or any of them, shall be, and he and they is and are hereby

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declared to be, guilty of felony; and being lawfully convicted thereof by verdict or confession, or being indicted thereof, shall stand mute, or will not directly answer to the indictment, or will peremptorily challenge above the number of twenty of the jury, or shall upon such indictment be outlawed, shall suffer death as felons, and be excluded and debarred of and from the benefit of clergy.

III. And *whereas*, by the Act entitled “An Act for the better ordering and governing negroes and other slaves in this Province,” passed the tenth day of May, one thousand seven hundred and forty, it is enacted, that a justice of the peace shall, upon complaint made or information received of an offence committed by any slave, for which capital punishment may be inflicted, commit the offender to the safe custody of the constable of the parish where such offence was committed, and shall, without delay, by his warrant, call to his assistance any one of the nearest justices of the peace to associate with him, and shall, by the same warrant, summon any number of the neighboring freeholders, not less than three or more than five, to meet at a certain day and place, not exceeding three days after the apprehending of such slave or slaves, and finally hear and determine the matter brought before them, in the most expeditious and summary manner. And *whereas*, it may frequently happen to be impossible to procure the justice and freeholders, and the witnesses who are capable of giving such evidence as would subject the offenders to the punishment inflicted by law, to attend such trial within the time by the said Act prescribed; whereby such offenders, though guilty, may escape the punishment due to their offences. *Therefore be it enacted* by the authority aforesaid, That the said clause, so far as the same relates to the trial of such slave, at any time not exceeding three days after his being apprehended, shall be, and is hereby, from and immediately after the passing of this Act, repealed.

IV. *And be it enacted* by the authority aforesaid, That it shall and may be lawful for the justice who shall commit the offender, to issue his warrant; under his hand and seal, to call to his assistance any one of the nearest justices of the peace to associate with him, and to summon the freeholders, as mentioned in the said Act, to meet together with the said justice at a certain day and place, not exceeding six days after the apprehending such offender; and that it shall be left to the discretion of the said justices and freeholders, at any time within six days after the apprehending such slave, and his being committed by a justice of the peace for trial, to postpone the said trial to such further time as they shall think proper and appoint, upon oath being made before them, or affidavit produced to them, that the person or persons who was or were witnesses to such fact, for which such slave was apprehended, is or are ill, and cannot with safety attend such trial, or is or are at too great a distance to be there within the time by this Act directed for such trial.

JAMES MICKIE, *Speaker.*

In the Council Chamber, the 11th day of May, 1754.

Assented to:

JAMES GLEN.

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No. 1025. AN ORDINANCE TO DIRECT THE MANNER OF PROCURING NEGROES
TO BE EMPLOYED IN THE PUBLIC SERVICE.

WHEREAS, a number of able male slaves are frequently wanted on very pressing occasions for the public service, which will not admit of delay, and it would be very detrimental to the State if speedy and effectual means are not provided to supply the public, from time to time, with such a number of male slaves as the exigency of affairs may require to be employed on the public works, for the defence and security of this State :

I. *Be it therefore ordained*, by his Excellency John Rutledge, Esquire, President and Commander-in-chief in and over the State of South Carolina, and by the honorable the Legislative Council and General Assembly of the said State, and by the authority of the same, That the President and Commander-in-chief, by and with the advice of the privy council for the time being, shall have power and authority, and he is hereby authorized and empowered, whenever and as often as the public service shall require it, to issue his orders to the several committees of the parishes and districts throughout this State, or such of them as he, with the advice aforesaid, shall judge proper, demanding of them, respectively, such number of able male slaves, fit for labour, as shall, in his discretion, be thought adequate to the exigency of the case, and the circumstances and abilities of the district. And the said committees, or any three or more of their members, respectively, are hereby empowered and required, immediately on receiving such orders, to proceed, in the most expeditious manner, to rate and fix the proportion that each owner of slaves within their respective parishes and districts shall be obliged to furnish towards completing the number of slaves demanded, according to the best information or knowledge they can obtain. And the said committees, or any three or more of their members, respectively, having determined and agreed on the quota of each owner, shall forthwith give notice thereof, in writing, requiring such owner and owners, or in his or their absence, the overseer or manager, at a day certain, to cause so many able bodied male slaves as in the said notices, respectively, shall be specified, to be conveyed, with the utmost dispatch, to the place or places appointed by the President's order, furnished with such tools and implements, if in the power of the owner, as shall be directed and required.

II. *And be it further ordained* by the authority aforesaid, That if any owner or owners of slaves, the overseer or manager thereof, having notice as aforesaid, shall refuse or neglect to send and convey the negroes required of him or her, as his or her quota and proportion, and shall not actually and faithfully cause the said negroes so allotted, to proceed to the place of their destination, according to the notice given by such committees, or any three or more of their members, respectively, that then and in every such case, the said committees, respectively, shall have power, and they, or any three or more of their members, respectively, are hereby authorized and required, by warrant under their hands, directed to any one or more persons, to cause such and so many negroes belonging to the person or persons so neglecting or refusing, as were ascertained as his or her quota, to be immediately impressed, seized and conveyed to Charlestown, or other place of destination, there to be employed and kept in the public service, for and during the space of three months, if so long wanted, without any pay, wages or allowance whatever to the owner or owners thereof.

III. *And be it further ordained* by the authority aforesaid, That if it

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shall appear to the said committees, or any three or more of their members, respectively, more conducive to the public service, or more convenient to the inhabitants in general, that then they shall use their best discretion and judgment, either to take the number of negroes required by the President's order, from the whole district or parish, in equal proportions, according to the number each owner possesses, or to divide and parcel the district or parish into classes or divisions, obliging each class or division alternately to supply the number required, and to relieve each other by turns, at the expiration of a certain given time; or to make such other just and equitable arrangement or regulation in the premises, as may best suit the particular circumstances of the people, or most effectually promote the public good; *provided always*, that no negroes so sent and employed on the public works, shall be returned or discharged until a like number shall actually arrive to replace them, if wanted.

IV. *And be it further ordained* by the authority aforesaid, That every owner who shall, in obedience to this Ordinance, send his slaves to work on the public account, agreeable to the appointment of the committees, or any three or more of their members, as aforesaid, respectively, shall receive for each negro, per day, the sum of ten shillings, current money, free of deduction, from the time of leaving their master's or mistress's service to the time they may be discharged from the public service, allowing a reasonable time for returning home, over and besides the maintenance of the said slaves.

V. *And be it further ordained* by the authority aforesaid, That the said committees, or any three or more of their members, respectively, shall have power and authority, and they are hereby required, to cause a double proportion of slaves to be sent to work for the public benefit, as aforesaid, from all and every person and persons resident in their respective parishes and districts, who have not subscribed the general association of the inhabitants of this State, and taken the oath of fidelity to the present government of the same, or who shall refuse to subscribe the said association, or take the said oath, on its being tendered by any of the members of the committees, as aforesaid, who are hereby severally authorized and empowered to administer such oath.

VI. *And be it further ordained* by the authority aforesaid, That this Ordinance shall be of force for and during the term of one year from the passing thereof.

THOS. SHUBRICK, *Speaker of the Legislative Council.*

JAMES PARSONS, *Speaker of the General Assembly.*

In the Council Chamber, the 9th day of October, 1776.

Assented to: J. RUTLEDGE.

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No. 1372. AN ORDINANCE TO IMPOSE A PENALTY ON ANY PERSON WHO SHALL IMPORT INTO THIS STATE ANY NEGROES, CONTRARY TO THE INSTALLMENT ACT.

I. *Be it ordained*, by the honorable the Senate and House of Representatives, met in General Assembly, and by the authority of the same, That any person importing or bringing into this State a negro slave, contrary to the Act to regulate the recovery of debts and prohibiting the importation of negroes, shall, besides the forfeiture of such negro or slave, be liable to a penalty of one hundred pounds, to the use of the State, for every such negro or slave so imported and brought in, in addition to the forfeiture in and by the said Act prescribed.

In the Senate House, the twenty-eighth day of March, in the year of our Lord one thousand seven hundred and eighty-seven, and in the eleventh year of the Independence of the United States of America.

JOHN LLOYD, *President of the Senate.*

JOHN J. PRINGLE, *Speaker of the House of Representatives.*

No. 1389. AN ACT AUTHORIZING PERSONS HAVING IN THEIR POSSESSION, OR TAKING UP, RUNAWAY SLAVES, TO SEND THEM TO THE GAOLS OF THE DISTRICTS WHERE THEY MAY BE APPREHENDED, AND NOT TO THE WORK-HOUSE OF CHARLESTON.

I. *Be it enacted*, by the honorable the Senate and House of Representatives, in General Assembly met, and by the authority of the same, That every person or persons, having in custody or taking up one or more runaway slaves, shall cause the same to be conveyed and delivered to the gaoler of any district in which such slave shall be apprehended, within five days after having such slave in custody, under the penalty of twenty shillings for each day he or they shall neglect to carry such slave to the gaoler, to be recovered by the owner, before a magistrate, or any court of record, as the case may require; and the said gaoler shall, on receiving such slave or slaves, confine and be answerable for the same, and give a receipt thereof, and also give his note of hand to the person so delivering the same, for the amount of the party's trouble and expenses, allowing four pence per mile, and a half dollar per day, allowing twenty-five miles per day going, only, and the sum of ten shillings for taking up every such slave, if a runaway, which note shall be made payable to the bearer, and reimbursed to the gaoler, immediately, out of the amount sales of every such negro, or when his owner shall take him out of gaol, which shall not be before such owner shall pay such and other lawful charges for confining and maintaining of such slave; *provided*, that where any person hath or shall take up any slave, he shall cause him to be conveyed to a neighbouring justice, who may examine the party on oath, touching the distance and time in which he hath necessarily travelled, and in which he shall go with such slave the nearest way to the district gaol, and thereof shall give a certificate, on a just estimate of such time and distance; without which certificate

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the gaoler shall not be obliged to give his note ; but he shall, notwithstanding, take every such slave into confinement. And in all cases where such slave or slaves shall be delivered to any gaoler, he shall safely keep, advertise and dispose of them, according to the directions of an Act passed the tenth day of March, one thousand seven hundred and eighty-four, to oblige persons having negroes and other property, to render an account thereof ; and for every day the said gaoler shall wilfully neglect to advertise such slave or slaves, after having him or them in his custody, agreeable to the directions of the said Act, he shall forfeit ten shillings for each slave, to be recovered by the owner before a magistrate, or in any court of record, as the case may require.

II. *And be it further enacted* by the authority aforesaid, That such part of the said Act as obliges persons residing in any other district than Charleston, and having in their custody such slaves, to convey them to the warden of the work-house of Charleston, shall be, and the same is hereby, repealed.

In the Senate House, the twenty-seventh day of February, in the year of our Lord one thousand seven hundred and eighty-eight, and in the twelfth year of the Independence of the United States of America.

JOHN LLOYD, *President of the Senate.*

JOHN J. PRINGLE, *Speaker of the House of Representatives.*

AN ACT TO PROHIBIT THE IMPORTATION OF SLAVES FROM AFRICA, OR No. 1544.
OTHER PLACES BEYOND SEA, INTO THIS STATE, FOR TWO YEARS ; AND ALSO TO PROHIBIT THE IMPORTATION OR BRINGING IN SLAVES, OR NEGROES, MULATTOES, INDIANS, MOORS OR MESTIZOES, BOUND FOR A TERM OF YEARS, FROM ANY OF THE UNITED STATES, BY LAND OR BY WATER.

WHEREAS, it is deemed inexpedient to increase the number of slaves within this State, in our present circumstances and situation ;

I. *Be it therefore enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That no slave shall be imported into this State from Africa, the West India Islands, or other place beyond sea, for and during the term of two years, commencing from the first day of January next, which will be in the year of our Lord one thousand seven hundred and ninety-three.

II. *And be it further enacted* by the authority aforesaid, That no slave or negro, Indian, Moor, mulatto or Mestizo, bound to service for a term of years, shall be brought into this State, by land or by water, from any of the United States, or any of the countries bordering thereon, ever hereafter ; *provided nevertheless*, that it shall and may be lawful for any citizen of the United States, coming to settle with his family in this State from any of the United States, and actually settling in this State for five years, to bring along with him or her, all such slaves as he, she or they may possess, in his, her or their own right, or as guardian for any person removing with him, her or them ; but no person shall be permitted, under color

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of such removal, to bring with him, her or them, into this State, for sale, the slave or slaves of any other person; and *provided also*, that if any citizen of this State shall intermarry with a citizen of another State, it shall and may be lawful for such citizen to bring into this State all such slaves as he or they may actually and directly acquire by such intermarriage; and *provided*, nothing in this Act contained shall be construed to extend to the servants or domestics of persons travelling to and from and into this State, from any of the United States, or to the domestics of persons arriving from any other place, and residing not more than six months in this State; but such servants or domestics shall, in such case, be permitted to be sold, or to remain in this State, at the departure of their owners or masters.

III. *And be it further enacted* by the authority aforesaid, That if any slave or negro, Indian, Moor, mulatto or mestizo, bound to service for a term of years, shall be imported or brought into this State, contrary to the true intent and meaning of this Act, such slave or slaves, negro, Indian, Moor, mulatto or mestizo, shall be deemed and taken as a forfeiture to the State; one third part of whose value shall be paid to the person or persons making information of such importation or bringing in; and the person or persons importing or bringing in such slave or slaves, negro, Indian, Moor, mulatto or mestizo, contrary to the intent and meaning of this Act, shall, moreover, be subject to a penalty of fifty pounds for every slave or negro, Indian, Moor, mulatto or mestizo, so brought in.

IV. *And be it further enacted* by the authority aforesaid, That where any person has knowledge of or sufficient grounds to believe that any slave or negro, Indian, Moor, mulatto or mestizo, has been imported or brought into this State, contrary to the true intent and meaning of this Act, it shall and may be lawful for such person to make information thereof to a magistrate, upon oath, who is hereby required and directed to issue his warrant against the person accused of such importation or bringing in, and who, upon hearing the informer and person accused, may either discharge the accused, if he thinks there is no just cause of information or good grounds of suspicion; or if there appears sufficient cause of information, he shall forthwith take into safe keeping all the slaves, negroes, Indians, Moors, mulattoes or mestizoes so imported or brought into this State, contrary to this Act, unless the party accused give ample security for re-delivery of the same slave or slaves, Indian, Moor, negro, mulatto or mustizo, if adjudged to be forfeited; and said magistrate shall forthwith proceed to summon to his aid one other magistrate and three freeholders, who shall hear the parties and adjudge thereon as to law and justice doth belong; and if either the informer or person accused are dissatisfied with the judgment of the single magistrate, or the magistrates and freeholders, they shall be allowed an appeal from such judgment to the next court of common pleas to be holden for the district where such trial has first been had, where the said appeal shall be tried before a jury of the country, without delay; the judgment of which court shall be final and conclusive.

In the Senate House, the twenty-first day of December, in the year of our Lord one thousand seven hundred and ninety-two, and in the seventeenth year of the Independence of the United States of America.

DAVID RAMSAY, *President of the the Senate.*

JACOB READ, *Speaker of the House of Representatives.*

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No. 1605.

AN ACT TO REVIVE AND EXTEND AN ACT ENTITLED "AN ACT TO PROHIBIT THE IMPORTATION OF SLAVES FROM AFRICA, OR OTHER PLACES BEYOND SEA, INTO THIS STATE, FOR TWO YEARS; AND ALSO, TO PROHIBIT THE IMPORTATION OR BRINGING IN OF NEGRO SLAVES, MULATTOES, INDIANS, MOORS OR MESTIZOES, BOUND FOR A TERM OF YEARS, FROM ANY OF THE UNITED STATES, BY LAND OR WATER."

I. *Be it enacted* by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That an Act entitled "An Act to prohibit the importation of slaves from Africa, or other places beyond sea, into this State, for two years; and also, to prohibit the importation or bringing in of negro slaves, mulattoes, Indians, Moors or mestizoes, bound for a term of years, from any of the United States, by land or water," be, and the same is hereby, extended, until the first day of January, in the year of our Lord one thousand seven hundred and ninety-seven.

II. *And be it further enacted* by the authority aforesaid, That it shall not be lawful, at any time hereafter, for any slave or free negro, mulattoe or mestizoe, or other person of color, whether bond or free, to be imported or brought into this State, or to land or enter the State, from the Bahamas or West India Islands, or from any part of the continent of America, without the limits of the United States, or from other parts beyond sea; and all and every slave and slaves, which shall be imported or brought as aforesaid, upon landing or being landed or conducted within this State, shall be, and the same are hereby declared to be, forfeited; and the Governor is hereby authorized and required to transport said slave, and sell him or her; one half of the proceeds for the benefit of the State, and the other half to the informer: and moreover, the person or persons who shall import or bring in such slaves, upon being convicted thereof, shall forfeit and pay to the State, the sum of fifty pounds for each slave so unlawfully imported or brought in; and the ship or vessel or other vehicle by which such slaves shall be so unlawfully imported or brought in, are hereby declared responsible for paying the same, and shall forthwith be taken possession of, for and on behalf of the State, unless the offender or offenders, or some other person or persons, will, before some judge or magistrate, enter into bond and good security to the State for the payment of such penalty, together with costs and charges, as shall be adjudged to be forfeited, under or by virtue of this Act. And if any free negro, mulattoe or mestizoe, or other person of color, bond or free, from any of the places or parts aforesaid, shall land or enter the State of their own accord, they, and each of them, shall immediately be apprehended and committed to gaol, and notice of such commitment shall immediately be given to the Governor of the State, who is hereby required to cause such person or persons to be transported to the place from whence they came, or such other place as he may deem most advisable; and to provide for the maintenance of such persons during their necessary confinement, (should they not have wherewith to support themselves,) it shall and may be lawful for the sheriff and gaoler to compel them to such reasonable labor as may be conveniently provided for them.

In the Senate House, this twentieth day of December, in the year of our Lord one thousand seven hundred and ninety-four, and in the nineteenth year of the American Independence.

DAVID RAMSAY, *President of the Senate.*

JACOB READ, *Speaker of the House of Representatives.*

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No. 1645. AN ACT TO PROHIBIT THE IMPORTATION OF NEGROES, UNTIL THE FIRST DAY OF JANUARY, ONE THOUSAND SEVEN HUNDRED AND NINETY-NINE.

WHEREAS, it appears to be highly impolitic to import negroes from Africa, or other places beyond seas.

I. *Be it therefore enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the importation of negroes from Africa, and other places beyond seas, be, and it is hereby, prohibited, until the first day of January, one thousand seven hundred and ninety-nine; and every slave who shall be imported contrary to this Act, upon landing, or being landed or conducted into this State, shall be forfeited; and the Governor is hereby authorized and required to sell such slave; one half of the proceeds of the sale to be for the benefit of the State, and the other half to the informer.

II. *And be it further enacted* by the authority aforesaid, That the person or persons who shall import or bring in such slave, upon being convicted thereof, shall forfeit and pay to the State, fifty pounds for each slave so imported or brought into this State; and the ship, vessel, or other vehicle, in which such slaves shall be so unlawfully imported, is hereby declared responsible for paying the same, and shall forthwith be taken into possession, for and on behalf of the State, unless the offender or offenders, or some other person or persons, will, before some judge or magistrate, enter into bond with good security to the State for payment of such penalty, together with costs and charges, as shall be adjudged to be forfeited, under or by virtue of this Act.

In the Senate House, the nineteenth day of December, in the year of our Lord one thousand seven hundred and ninety-six, and in the twenty-first year of the Independence of the United States of America.


DAVID RAMSAY, *President of the Senate.*

ROBT. BARNWELL, *Speaker of the House of Representatives.*

No. 1658. AN ACT MORE EFFECTUALLY TO PREVENT SHOP-KEEPERS, TRADERS, AND OTHERS, FROM DEALING WITH SLAVES HAVING NO TICKETS FROM THEIR MASTERS; AND FOR OTHER PURPOSES THEREIN MENTIONED.

WHEREAS, it is found expedient to adopt measures more effectually to prevent slaves without tickets from dealing with shop-keepers, traders and others, to the prejudice of their owners;

I. *Be it therefore enacted* by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That if any shop-keeper, trader, or other person, shall, at any time hereafter, by himself or any other person, directly or indirectly, buy or purchase from any slave, in any part of this State, any corn, rice, peas, or other grain, bacon, flour, tobacco, cotton, indigo blades, or any other article whatever, or shall otherwise deal, trade or traffic with any slave not having a ticket or permit so to deal, trade or traffic, or to sell any such article, from and under the hand of his master or owner, or such other

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person as may have the care or management of such slave, such shop-keeper, trader or other person, shall, for every such offence, forfeit not exceeding two hundred dollars, to be recovered by bill, plaint or indictment, one half to the use of the State, and the other half to the use of the informer, in any court of this State having jurisdiction to take cognizance thereof.

In the Senate House, the twentieth day of December, in the year of our Lord one thousand seven hundred and ninety-six, and in the twenty-first year of the Independence of the United States of America.

DAVID RAMSAY, *President of the Senate.*

ROBT. BARNWELL, *Speaker of the House of Representatives.*

AN ACT TO REVIVE AND EXTEND AN ACT ENTITLED "AN ACT TO PROHIBIT THE IMPORTATION OF NEGROES UNTIL THE FIRST DAY OF JANUARY, ONE THOUSAND SEVEN HUNDRED AND NINETY-NINE," UNTIL THE FIRST DAY OF JANUARY, EIGHTEEN HUNDRED AND ONE. No. 1696.

I. *Be it enacted*, by the honorable the Senate and House of Representatives, now met and sitting in General Assembly, and it is hereby enacted by the authority of the same, That an Act passed on the nineteenth day of December, one thousand seven hundred and ninety-six, entitled "An Act to prohibit the importation of negroes until the first day of January, one thousand seven hundred and ninety-nine," be, and the same is hereby, extended to the first day of January, one thousand eight hundred and one.

In the Senate House, the twenty-first day of December, in the year of our Lord one thousand seven hundred and ninety-eight, and in the twenty-third year of the Independence of the United States of America.

JOHN WARD, *President of the Senate.*

WM. JOHNSON, *Speaker of the House of Representatives.*

AN ACT TO PROTECT SLAVES BELONGING TO THIRD PERSONS, FROM BEING DISTRAINED FOR RENT NOT DUE BY THEM. No. 171

WHEREAS, it is manifestly unjust that any person's negroes should be taken to pay rent that he does not owe, and very many widows and orphans are exposed to this injustice, who derive their support from the wages of slaves whom they hire out; for remedy thereof,

I. *Be it enacted*, by the honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That from and after the passing of this Act, no slave shall be

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liable to be distrained, or shall at any time be distrained, for house rent, or any other rent, unless such slave shall, bona fide, belong to such person or persons as may be lawfully liable to or chargeable with such rent.

In the Senate House, the eighteenth day of December, in the year of our Lord one thousand seven hundred and ninety-nine, and in the twenty-fourth year of the Independence of the United States of America.

JOHN WARD, *President of the Senate.*

WM. JOHNSON, *Speaker of the House of Representatives.*

No. 1740. AN ACT FURTHER TO REVIVE AND EXTEND AN ACT ENTITLED "AN ACT TO PROHIBIT THE IMPORTATION OF NEGROES UNTIL THE FIRST DAY OF JANUARY, ONE THOUSAND SEVEN HUNDRED AND NINETY-NINE, UNTIL THE FIRST DAY OF JANUARY, ONE THOUSAND EIGHT HUNDRED AND ONE," TO THE FIRST DAY OF JANUARY, ONE THOUSAND EIGHT HUNDRED AND THREE.

I. *Be it enacted*, by the honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That an Act passed the nineteenth day of December, one thousand seven hundred and ninety-six, entitled "An Act to prohibit the importation of negroes until the first day of January, one thousand seven hundred and ninety-nine," be, and the same is hereby, further extended to the first day of January, one thousand eight hundred and three.

In the Senate House, the twentieth day of December, in the year of our Lord one thousand eight hundred, and in the twenty-fifth year of the Independence of the United States of America.

JOHN WARD, *President of the Senate.*

THEODORE GAILLARD, *Speaker of the House of Representatives.*

No. 1744. AN ACT TO PREVENT NEGRO SLAVES AND OTHER PERSONS OF COLOUR, FROM BEING BROUGHT INTO OR ENTERING THIS STATE.

Negroes, &c.
prohibited from
entering this
State.

I. *Be it enacted*, by the honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That it shall not be lawful, at any time after the passing of this Bill, for any person or persons, to bring into this State, either by land or water, (except as is hereinafter excepted,) any negro, mulatto, mestizo, or other slave or servant of color, for sale within this State, or to be kept therein; nor shall it be lawful for any free negro, mulatto or mestizo, at any time after the passing of this Act, to enter into this State. And every such person of colour, as aforesaid, being a slave, or bound to service for a term [of] years, or free, who shall be sent or brought into this State, or

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shall enter and come into the same, contrary to this Act, shall and may be apprehended, and taken before a justice of the peace within the district where he or she shall be so apprehended, by any citizen or free white man who shall be an inhabitant of such district, to be dealt with as is herein after provided.

II. *And be it enacted* by the authority aforesaid, That it shall and may be lawful for any justice of the peace in this State, to whom information shall be made, on oath, by any person or persons, that he or they know, or have reason to believe, that any negro, mulatto or mestizo, slaves, or any negro, mulatto or mestizo, indented or hired for a term of years, have been, or are about to be, introduced or brought into this State, contrary to law, to issue his or their warrant, addressed to any constable, or should he deem it necessary to call an armed force, to any militia officer, as the case may require, directing him, with the corps under his command, to pursue, seize and take all such negroes, mulattoes and mestizoes, together with the white person or persons who may have them in charge, or accompanying them, and lodge the offender or offenders in the nearest gaol to the place where they are so taken; and in case such justice or justices, to whom such information shall be offered, shall not, within twelve hours, issue his or their warrant, he or they shall forfeit and pay the sum of two hundred dollars, to be recovered by suit in any court of record in this State, one half thereof to be paid into the treasury, as a fund for defraying the expenses in putting this Act in force, and the other half to the informer who shall sue for and recover the same; and in which suits the defendants shall not be entitled to an imparlance; and further, it is declared, that such justice or justices so offending, shall, after indictment and conviction, be disqualified and shall be rendered incapable of holding any office of profit or trust in this State, for the term of five years after such conviction.

Warrants to be issued against offenders.

III. *And be it enacted* by the authority aforesaid, That it shall and may be lawful for any such officer of the militia, as aforesaid, and he is hereby authorized and required, immediately upon receipt of such warrant, to assemble the corps under his command, or such part thereof as he shall deem sufficient for that purpose, and, by himself or such officer under his command as he shall see fit to depute for that purpose, to seize and take every such negro, mulatto or mestizo, being a slave, or a servant either indented or hired for a term of years, or free, and also every person accompanying and having charge of such slave or servant; and every of them, being so taken, to commit, by writing under the hand of such officer so taking the said persons, to the custody of the keeper of the public gaol of the district wherein the said capture shall take place; and it shall be the duty of every such gaoler, in such case, to receive and safe keep, every such person, in his gaol, till thence delivered by due course of law. And it shall be lawful for every such officer of militia, and also for those persons who shall act immediately under the command of such officer, and in conformity to the authority hereby vested in such officer, in case resistance shall be made by any such slave or servant, as aforesaid, or by any person accompanying and having charge of such slave or servant, to the authority of such officer in enforcing the observance of this Act, and in the lawful exercise of the duties required by the same, to employ force to overcome such resistance, and if need be, to attack, wound and kill any person who shall resist, as aforesaid, or any person who shall aid and assist therein, as in cases of invasion, rebellion or insurrection.

Officers of militia to execute the said warrants.

IV. *And be it enacted* by the authority aforesaid, That every such officer,

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Persons acting
under such
warrants, enti-
tled to pay.

and every person acting under his command, according to this Act, shall be entitled to the same pay and rations, and be subject to the same rules of military discipline, and to the same penalties, that every such officer or person would be entitled and subject to, in case of his being in actual service, by virtue of the Acts of the General Assembly of this State, in regard to the militia. And in case any such officer to whom any such warrant, as aforesaid, shall be directed and delivered, shall refuse or wilfully neglect to proceed to execute the same, within six hours after the same warrant shall be delivered to him, he shall, for every such refusal or neglect, be liable to a trial by a court martial, and, upon conviction thereof by such court, shall be cashiered, and shall be incapable of holding any office of profit or trust in this State, for the term of five years after the sentence of said court martial.

Sheriffs may
sell slaves.

V. *And be it enacted* by the authority aforesaid, That it shall and may be lawful for the sheriff of the district, within the gaol of which any such slave or servant, as aforesaid, shall be confined, as aforesaid, after it shall be established by the verdict of a jury, as hereinafter is provided, that such slave or servant has been brought into this State contrary to this Act, to sell any such slave or slaves, or servants, at the usual place, and at one of the usual times, appointed by law for selling property at sheriffs's sales within his district, after giving due and sufficient legal notice of such intended sale, for one month, at least, previously to the same; and after deducting and paying to those who shall be entitled thereto, all the lawful fees, charges, and reasonable expenses incurred by such taking up, commitment, safe keeping and maintenance of every such slave or servant; the residue of the proceeds of such sale to be divided and distributed to and among the following persons, in the proportion following; that is to say:—to the informer or informers, one half of the nett proceeds aforesaid, and the remaining half of said nett proceeds shall be apportioned and divided among the officers, non-commissioned officers [and] privates, composing the party by whom such slave or servant so to be sold, was taken and committed, agreeably to their respective rates of pay when engaged in actual service.

Nett proceeds,
how to be ap-
plied.

Informer a
competent wit-
ness.

VI. *And be it enacted* by the authority aforesaid, That it shall be lawful for the informer or informers under this Act, to give evidence to support such information; and every such informer is hereby declared to be a competent witness in any court of law in this State which shall have cognizance of such cause; any law, usage or custom to the contrary thereof notwithstanding.

Persons charg-
ed with bring-
ing in slaves,
to disprove the
charge.

VII. *And be it enacted* by the authority aforesaid, That in all and every case, where any person or persons shall be brought, as aforesaid, before the justices and freeholders, charged with bringing into this State, as aforesaid, or having in his, her or their possession, any slave or slaves, as aforesaid, he, she or they, in order to exculpate themselves from the penalties inflicted by this Act, so far as the same regard the property which such person or persons may claim or have in such slave or slaves, shall be obliged, and they hereby are required, to prove the charge unfounded, which may be so brought against them.

Persons un-
justly charged,
to be liberated.

VIII. *And be it enacted* by the authority aforesaid, That if the said justices and freeholders shall, after a full examination of the facts herein authorized to be submitted to them, be satisfied that the same are unfounded, it shall and may be lawful for the said justices and freeholders, or a majority of them, to liberate and discharge the said persons so

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brought before them for examination under the provisions contained in this Act.

IX. *And be it enacted*, That nothing contained in this Act shall tend to prevent any person or persons residing in any of the different States to migrate into this State, with his, her or their slaves; *provided* such person or persons so migrating as aforesaid, shall, before such migration, on oath, produce a certificate of such oath before a justice of the peace or judge, and swear or affirm, that he, she or they have come into this State with an intent to reside therein, and that the said slaves brought into this State, as aforesaid, have been the bona fide property of such person or persons, for the term of two years before the migrating of such person or persons; and they shall also produce to the said judge or justice, a certificate under the hand and seal of a magistrate in the State in which such person or persons resided, certifying that the slave or slaves intended to be brought into this State, have been his, her or their property for the term aforesaid; and it may or shall not be lawful for any person or persons coming into this State with an intent to reside therein, to dispose of or hire any slave or slaves, so brought in by him, her or them, as aforesaid, until such person or persons have resided herein for the full term of two years. *Provided also*, that in no case, or upon any pretence whatever, shall it be lawful for any person, being the head of a family, to bring into this State any number of negroes exceeding ten, without the express permission of the Legislature; and that no other person, except the head of a family, so intending to reside in this State, shall be allowed the benefit or provision extended or offered in the above clause of this Act.

This Act not to prevent persons from migrating to this State.

X. *And be it enacted* by the authority aforesaid, That if any tax collector shall have knowledge or information of any slaves, as before mentioned, being owned by or in the possession of any person or persons whomsoever, and shall fail or neglect to give information to the nearest magistrate, within three days after such knowledge or information, every such tax collector shall be liable to pay the sum of two hundred dollars, to be recovered and applied as hereinbefore mentioned; and shall be, on conviction of such offence, incapable of holding any office of profit or trust in this State, for the term of five years thereafter.

Penalty on tax collectors for neglect.

XI. *Be it enacted* by the authority aforesaid, That if any person or persons shall bring into this State, by land or by water, or shall have in his, her or their possession, any slave or slaves, as aforesaid, he, she or they shall, upon conviction thereof, forfeit and pay the sum of two hundred dollars. *Provided always*, that nothing in this Act contained shall extend to masters of vessels bringing into this State any negro, mulatto or person of color, employed on board or belonging to such vessel, and who shall therewith depart, he or they entering into a bond for performance thereof, with sufficient security, before such person or persons as his Excellency the Governor for the time being shall appoint for that purpose; or to any person travelling into this State, having one or more negroes, mulattoes or persons of color, as domestic servants.

Penalty on persons bringing slaves into this State.

XII. *Be it further enacted* by the authority aforesaid, That any person or persons, having, owning or keeping any public ferry or ferries, toll bridge or bridges, in this State, and who shall knowingly and willingly suffer to be passed, conveyed, carried or ferried over, any such negro or negroes prohibited by law from being brought into this State, or shall, in like manner, pass, convey, carry or ferry over any white person or persons having such negro or negroes in charge, or accompanying them, shall forfeit and pay, for

Penalty on ferry-men who suffer slaves to be brought into this State.

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every white person or negro so passed, conveyed, carried or ferried over, the sum of five dollars, to be recovered in any court of record in this State; one half to be paid to the informer or informers who will sue for and recover the same, and the other half to be paid into the treasury of the State, in aid of the fund to carry this law into effect.

XIII. *Be it enacted* by the authority aforesaid, That in all and every case arising under this Act, it shall and may be lawful for any person or persons to enforce or prosecute the same, at any time not exceeding two years; any law, usage or custom the contrary thereof notwithstanding.

XIV. *Be it enacted* by the authority aforesaid, That if any person or persons whatsoever, shall be sued, impleaded, molested or prosecuted, for any matter, cause or thing, done or executed, or caused to be done or executed, by virtue of or in pursuance of the directions of this Act, shall and may plead the general issue, and give the special matter in evidence.

XV. *Be it enacted* by the authority aforesaid, That this Act shall remain and continue in force for three years from the passing thereof, and till the next meeting and sitting of the General Assembly of this State thereafter, and no longer.

In the Senate House, the twentieth day of December, in the year of our Lord one thousand eight hundred, and in the twenty-fifth year of the Independence of the United States of America.

JOHN WARD, *President of the Senate.*

THEODORE GAILLARD, *Speaker of the House of Representatives.*

No. 1745. AN ACT RESPECTING SLAVES, FREE NEGROES, MULATTOES AND MESTIZOES; FOR ENFORCING THE MORE PUNCTUAL PERFORMTNC OF PATROLL DUTY; AND TO IMPOSE CERTAIN RESTRICTIONS ON THE EMANCIPATION OF SLAVES.

WHEREAS, the laws heretofore enacted for the government of slaves, free negroes, mulattoes and mestizoes, have been found insufficient for keeping them in due subordination.

I. *Be it therefore enacted* by the honorable the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That from and after the passing this law, all assemblies and congregations of slaves, free negroes, mulattoes and mestizoes, whether composed of all or any of the above description of persons, or of all or any of the above described persons and of a proportion of white persons, assembled or met together for the purpose of mental instruction, in a confined or secret place of meeting, or with the gates or doors of such place of meeting barred, bolted or locked, so as to prevent the free ingress and egress to and from the same, shall be, and the same is hereby declared to be, an unlawful meeting; and the magistrates, sheriffs, militia officers, and officers of the police, being commissioned, are hereby directed, required and empowered, to enter into such confined places where such unlawful assemblies are convened, and for that purpose to break doors, gates or windows, if resisted, and disperse such slaves, free negroes,

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mulattoes or mestizoes, as may be then and there found unlawfully met together and convened; and such magistrates, sheriffs, constables, militia officers, or officers of the patrol, are hereby impowered and required to call unto their assistance such force and assistance from the neighborhood, as he or they may judge necessary for the dispersing of such unlawful assemblage of persons of colour, as aforesaid; and the officers and persons so dispersing such unlawful assemblage of persons, shall, if they think proper, impose such corporal punishment, not exceeding twenty lashes, upon such slaves, free negroes, mulattoes, or mestizoes, as they may judge necessary for deterring them from the like unlawful assemblages in future; and the said officers so dispersing such unlawful assemblies, shall, if within the city of Charleston, have power to take into custody and deliver to the master of the work house in Charleston, aforesaid, all or any of such slaves, free negroes, mulattoes, or mestizoes, as may be found transgressing this law; and the master of the work house, aforesaid, is hereby directed and required to receive such person or persons, and inflict on him or them such punishment as any two magistrates of the said city may think fit and direct, not exceeding twenty lashes; and the officers dispersing such unlawful assemblies, shall, if without the limits of Charleston, have power to take into custody, and deliver to the nearest constable, all or any of such slave or slaves, free negroes or mulattoes, as may be found transgressing this law; and the said constable is hereby required to receive such persons, and convey them to the nearest magistrate, who shall inflict such punishment, not exceeding twenty lashes, which any such magistrate may order and direct.

How such assemblies are to be treated.

II. *And be it further enacted* by the authority aforesaid, That from [and] after the passing of this Act, it shall not be lawful for any number of slaves, free negroes, mulattoes or mestizoes, even in company with white persons, to meet together and assemble for the purpose of mental instruction or religious worship, either before the rising of the sun or after the going down of the same; and all magistrates, sheriffs, militia officers, and officers of the patrol, being commissioned, city or town guard, or watchmen, are hereby vested with all the powers and authority for dispersing such assemblies, before day or after sun set, as is herein and hereby given to them in the first clause of this Act; and the said officers are also impowered to impose on all such slaves, free negroes, mulattoes or mestizoes, the same punishment as by the patrol law they are authorized to do in any case whatsoever.

Fine for not riding patrol.

III. *Be it enacted* by the authority aforesaid, That every person liable to perform patrol duty, or liable to procure a substitute to perform the said duty, shall, on failure (without legal excuse) to ride patrol in their respective turn, for every such default forfeit and pay to the commanding officer of the patrol, the sum of two dollars, to be recovered before the Captain of the beat or company to which such defaulter belongs, the money to go to the use of the patrol detachment of said company.

Slaves assembled for mental instruction may be dispersed.

IV. *And be it further enacted* by the authority aforesaid, That every officer or other person so entering into and dispersing such slaves, free negroes, mulattoes and mestizoes, from such closed or confined places of meeting, or from such open meeting, before sun rise or after the going down of the same, shall be, and he is hereby declared, under the protection of the law, and free from all suits at law, prosecutions and indictments, for or on account of such acts as may be done and performed by him or them, in pursuance of the letter and meaning of this Act. And all and

Persons dispersing unlawful assemblies to be protected.

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every person or persons, sueing or prosecuting any officer or other person for any trespass or tort done by him in putting in force and executing this law, shall, on failure of convicting the party, or proving the case fully, so as to entitle him, her or them to a recovery of damages, be liable, and be deemed and adjudged, to pay to the party so prosecuted or sued, treble costs, for which costs the party prosecuted or sued shall have his execution in the usual form, against the goods and chattels of such prosecutor or informer or plaintiff in the cause, upon application to the clerk of the court where the cause has been tried.

Owners of
plantations
must employ
overseers.

V. *Be it further enacted* by the authority aforesaid, That any owner or owners of a settled plantation, after the first of January, eighteen hundred and two, containing more than ten workers, shall be required by the tax collector to whom he shall make his return, to declare, on oath, whether he, she or they, have resided on the said plantation, or have employed and kept on such plantation a white man or overseer, for the preceding year, capable of doing and performing patrol duty; and every owner or owners, non-resident on such plantation, neglecting to have and employ such white man or overseer on such plantation, shall be liable, in addition to the penalty prescribed by the Act for the better ordering and governing negroes and other slaves, to a tax equal to the sum of one hundred dollars, for one year, to be levied and collected by the said tax collector in the same manner as he is by law directed to collect the general tax of this State. And in case such owner or owners refuse to declare, on oath, to the said collector, the truth of his, her or their having resided on such plantation containing ten working negroes, or having failed to keep and employ a white man or overseer on the same, agreeable to the foregoing clause, the tax collector shall, upon such refusal, issue his execution for double the amount of the sum to which by law he, she or they may for such neglect be liable to pay, directed to such officer as by law he is required to direct his tax executions to. *Provided nevertheless*, that three months shall be allowed for procuring such white person or overseer, in case of death, disagreement, or for any other cause.

Fine for not
making out
lists of patrol
detachments.

VI. And *whereas*, the fines imposed by the patrol law are too low, and deemed insufficient for the compelling the due and punctual execution of the said law: *Be it further enacted* by the authority aforesaid, That every captain or commanding officer of a company or beat, who shall fail and neglect, at every muster of his company, to prick off and make out proper lists of patrol detachments in his said company, and appoint to such detachments a leader, or proper officer, as by the patrol law he is required to do, shall, for such default, in addition to such fine as is by the said patrol law imposed for such neglect, forfeit the sum of eight dollars, to be recovered against him on information before any justice of the peace, the said fine to go to the informer.

Manner and
form of eman-
cipating slaves.

VII. *Whereas*, it hath been a practice for many years past in this State, for persons to emancipate or set free their slaves, in cases where such slaves have been of bad or depraved character, or, from age or infirmity, incapable of gaining their livelihood by honest means; to prevent which practice in future, *Be it enacted* by the honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That from and after the passing of this Act, it shall not be lawful for any person or persons to emancipate or set free his, her or their slave or slaves, except according to the forms and regulations hereinafter prescribed, to wit: Whenever any person or persons shall intend to emancipate or set free his, her or their slave or slaves, he, she or they shall signify

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such intention to some justice of the quorum, who is hereby authorized and required thereupon to summon to meet, at a convenient time and place, five indifferent freeholders living in the neighborhood of the person or persons so intending to emancipate or set free his, her or their said slave or slaves. And when the magistrate and the freeholders summoned as aforesaid, shall be convened, the person or persons proposing to emancipate or set free his, her or their slave or slaves, shall produce the said slave or slaves before the said magistrate and freeholders, and shall answer to them, upon oath, all such questions as they shall ask concerning the character of the said slave or slaves, and his, her or their ability to gain a livelihood in an honest way; and in case it shall appear to the said magistrate and freeholders, or a majority of them, that the said slave or slaves so produced before them, is or are not of bad character or characters, and is or are capable of gaining a livelihood in an honest way, they shall give the following certificate, to wit:

"We hereby certify, upon the examination, on oath, of A B, the owner of a certain slave or slaves, named C D, or E, as the case may be, (here describe the slave or slaves) satisfactory proof has been given to us, that the said slave or slaves, is or are not of bad character or characters, and is or are capable of gaining a livelihood, as the case may be, by honest means."

VIII. *Be it enacted* by the authority aforesaid, That no emancipation of any slave shall be valid or lawful, except it be by deed, and according to the regulations above prescribed, and accompanied by the above mentioned certificate. And furthermore, that every person freeing any slave, shall cause to be delivered to him or her, a copy of the deed of emancipation and certificate aforesaid, (within ten days after such deed shall have been executed) attested by the clerk of the court of the district, who shall record the said deed in the respective offices; and that the said clerk shall be paid therefor by the person emancipating, the sum of four dollars; and that all deeds and certificates of manumission, shall be void and of no effect, unless such deed and certificate shall be recorded within six months from the time the same shall have been executed.

Emancipation to be by deed.

Such deed to be recorded.

IX. *Be it enacted* by the authority aforesaid, That every person neglecting or refusing to deliver to any slave by him or her set free, such copy of the said deed and certificate, within ten days after the execution of the same, shall forfeit and pay fifty dollars, to be recovered, with costs, in any court of record, to the use of the person who shall sue for the same: And in case any slave shall hereafter be emancipated or set free, otherwise than according to this Act, it shall and may be lawful for any person who-soever, to seize and convert to his or her own use, and to keep as his or her property, the said slave so illegally emancipated or set free. *Provided*, that nothing herein contained shall be so construed as to deprive any free negro, Indian, mulatto or mestizo, in the case where he or she is unjustly detained or held in slavery, from any remedy or redress now given by law; and *provided also*, that no part of this Act shall be construed so as to effect or invalidate any disposition by will of persons now deceased, but such disposition shall operate the same as if this law were not passed.

Penalty for not delivering a copy of such deed.

In the Senate House, the twentieth day of December, in the year of our Lord one thousand eight hundred, and in the twenty-fifth year of the Independence of the United States of America.

JOHN WARD, *President of the the Senate.*

THEODORE GAILLARD, *Speaker of the House of Representatives.*

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No. 1756. AN ACT SUPPLEMENTARY TO AN ACT ENTITLED "AN ACT TO PREVENT NEGRO SLAVES AND PERSONS OF COLOR FROM BEING BROUGHT INTO OR ENTERING THIS STATE."

Penalty for
bringing ne-
groes into this
State.

I. *Be it enacted* by the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That any person or persons whomsoever, who shall be convicted by the verdict of a jury in any of the courts of common pleas or sessions in this State, of bringing into, or of causing or procuring to be brought into, or of aiding or assisting in the bringing into this State, after the passing of this Act, from any part or place without the limits of this State, any negro, mulatto, mestizo, or other slave or servant of color whatsoever, or of harbouring, or of keeping, or of owning, or having in possession, any negro, mulatto, mestizo, or other slave or servant of colour, within this State, so to be brought into this State, as aforesaid, or of entering this State, such person or persons, as the case may be, shall forfeit and pay one hundred dollars, to be appropriated as hereinafter directed, for each and every such negro, mulatto, mestizo, or other slave or servant of colour whatsoever, so to be brought into, or harboured, or kept, or owned, or being in possession, as aforesaid, within this State; and shall, moreover, forfeit and lose all his, her or their right, title and interest of to and in every such negro, mulatto, mestizo and other slave and servant of colour.

Every such ne-
gro to be sold.

II. *And be it enacted* by the authority aforesaid, That every negro, mulatto, mestizo, or other slave, which shall come or enter into this State, from any part or place from without the limits of this State, shall and may, upon the fact of such coming or entering into this State being found by the verdict of a jury in any court of sessions or common pleas in this State, be, by order of such court, sold by the sheriff of the district wherein such verdict shall be found, in the same manner as if seized in execution and sold by such sheriff by virtue of a writ of *feri facias*; and the monies which shall arise or be made from such sale, shall be appropriated, disposed of and paid as is hereinafter directed.

Warrants to be
issued against
such negroes.

III. *And be it enacted* by the authority aforesaid, That it shall and may be lawful for any justice of the peace or of the quorum, in this State, to whom information shall be made, on oath, by any person or persons, that he or they know, or have reason to believe, that any negro, mulatto, mestizo, or other slave, or any negro, mulatto, mestizo, or person of colour, indented or hired for a term of years, have been, after the passing of this Act, or are about to be, introduced into or come into this State, to issue his warrant, directed to any constable, or, should he deem it necessary to employ an armed force, to any officer of the militia of this State, as the case may require, directing him, with the corps under his command, or so many as may be necessary, to pursue, seize and take all such negroes, mulattoes or mestizoes, together with the white person or persons who may have them in charge, or be accompanying them, and to lodge the said negroes, mulattoes, mestizoes, and white person or persons, in the gaol nearest to the place where they shall be so taken, and the keeper of such gaol is hereby authorized and required to receive and safely keep them and each of them.

How such ne-
groes are to be
proceeded
against when
committed to
gaol.

IV. *And be it enacted* by the authority aforesaid, That the keeper of such gaol shall, within two days after such negroes, mulattoes, mestizoes or white person or persons, as aforesaid, shall have been lodged in his gaol, as aforesaid, give notice thereof in writing, signed with the hand of the keeper of such gaol, to some justice of the peace or of the quorum of the district in which his gaol shall be situated, which said justice shall thereupon,

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without delay, by warrant under his hand and seal, call to his assistance, and request any one of the nearest justices of the peace or of the quorum, to associate with him, and shall, by the same warrant, summon five of the neighboring freeholders to assemble and meet together at a certain day and place, not exceeding six days after such notice, as aforesaid, shall have been given to such justice, as aforesaid, in manner hereinbefore directed; and the justices and five freeholders, so assembled, shall cause to be brought before them the slave or slaves and free persons who shall have been lodged in gaol, in pursuance of this or any other law of this State against the introduction or entering of slaves and servants of colour into this State, and shall hear and examine the accusation which shall be brought against them, and his, her or their defence; and if the said justices and freeholders, or a majority of them, shall be of opinion that the charge is not sustained, it shall and may be lawful to and for the justices and freeholders, or a majority of them, to liberate and discharge the said slaves and persons so brought before them for examination, as aforesaid; and if the said justices and freeholders, or a majority of them, shall be of opinion that the charge is sustained, the said justices, or one of them, shall forthwith re-commit the said slave or slaves and other person or persons to the gaol from whence they came, there to be safely kept in the custody of the keeper of the said gaol, until delivered from thence by due course of law.

V. *And be it enacted* by the authority aforesaid, That so soon as the justices and freeholders shall be assembled, as aforesaid, in pursuance of this Act, the said justices shall administer each to the other the following oath: "I, A B, do swear, in the presence of Almighty God, that I will well and truly and impartially adjudge and determine the matter now submitted to me, according to the best of my skill and knowledge. So help me God." And then one of the said justices shall administer the same oath to each of the freeholders.

Oath to be taken by magistrates and freeholders.

VI. *And be it enacted* by the authority aforesaid, That in all and every case where any person or persons shall be brought, as aforesaid, before the justices and freeholders, charged with bringing into this State, as aforesaid, or with harboring, or keeping, or owning, or having in his, her or their possession, within this State, any slave or slaves, or free negroes, mulatto, mestizo or other person of color, indented for any term of time, he, she or they, to exculpate himself, herself or themselves, from the penalties inflicted by this Act, so far as the same regards the property or interest which such person or persons may claim or have in such slave or slaves, negro, mulatto, mestizo, or person of color whomsoever, shall, by force of this Act, be obliged, and he, she and they are hereby respectively required, to prove the charge untrue, which shall be so, as aforesaid, brought against him, her or them.

Persons charged with bringing negroes into this State must exculpate themselves.

VII. *And be it enacted* by the authority aforesaid, That the keeper of every public ferry within this State, shall, within thirty days after the publication of this Act, take and subscribe the following oath, before some justice of the peace or quorum of the district wherein the person required to take such oath shall reside, and cause or procure such oath to be filed in the office of the clerk of the court of common pleas in such district; that is to say: "I, A B, do swear, (or affirm, as the case may be,) that I will, to the best of my ability, carry, and cause to be carried, into effect this Act, and an Act to prevent negro slaves and other persons of colour, from being brought into or entering this State." And every such person who shall neglect or refuse to take, and cause and procure to be filed, such oath or

Oath to be taken by the keepers of ferries.

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affirmation, as is hereinbefore directed, shall forfeit and pay the sum of one hundred dollars.

Appropriation of penalties inflicted by this Act. VIII. *And be it enacted* by the authority aforesaid, That each and every penalty and forfeiture to be inflicted in pursuance of or by virtue of this Act, shall be appropriated, distributed and applied in manner following; that is to say : one fourth part thereof to the person or persons who shall inform and prosecute to conviction ; *provided*, that the informant shall swear or affirm, as the case may be, that the money so to be received by him is not nor shall not be paid over or held in trust for or to the use of the person so informed against ; and in case the said informant shall not take such oath, then the said fourth part to go as is hereinafter provided ; one fourth part to the corps who shall seize, take and lodge in gaol, as aforesaid, any slave or person or persons, whomsoever, as aforesaid, on their respectively swearing or conforming to the restrictions hereinbefore prescribed, as to the informer ; and the remaining part to the promoting a school or other seminary of learning, in the district where such conviction shall be had.

Slaves, &c., may be brought into this State under certain restrictions. IX. *And be it enacted* by the authority aforesaid, That it shall and may be lawful to and for any person travelling into or through this State, to bring into the same one or more slaves or free persons of color, not exceeding two, as necessary attendants on such person or his or her family, and for no other purpose whatsoever ; *provided nevertheless*, to exempt such person from the operation of this Act, every such person, (except members of congress, judges of the federal court, and public functionaries of the United States,) shall make oath before some justice of the peace or of the quorum of this State, near to the place where they shall enter the same, that such slave or slaves or persons of colour is or are his or her necessary attendants, and that he or she will not sell or dispose of such slave or person of colour, but will take the same back with her or him to his or her usual place of residence : and *provided, also*, that this shall not be construed to permit any person going out of this State to bring into the same any slave or person of color, which he or they did not take with him or her from this State.

Penalty for neglect of the duties imposed by this Act. X. *And be it enacted* by the authority aforesaid, That every person who shall refuse or neglect to discharge any of the duties on him enjoined by this Act, he shall therefor forfeit and pay the sum of twenty dollars, to be recovered and distributed as hereinbefore directed.

In the Senate House, the nineteenth day of December, in the year of our Lord one thousand eight hundred and one, and in the twenty-sixth year of the Independence of the United States of America.

JOHN WARD, *President of the Senate.*

THEODORE GAILLARD, *Speaker of the House of Representatives.*

Acts relating to Slaves.

A. D. 1802.

No. 1787.

AN ACT TO ALTER AND AMEND AN ACT ENTITLED "AN ACT TO PREVENT NEGRO SLAVES AND PERSONS OF COLOR FROM BEING BROUGHT INTO OR ENTERING THIS STATE;" AND ALSO, AN ACT SUPPLEMENTARY TO THE ACT AFORESAID; AND FOR OTHER PURPOSES THEREIN MENTIONED.

WHEREAS, the Act entitled "An Act to prevent negro slaves and persons of color from being brought into or entering this State," passed the twentieth day of December, in the year of our Lord one thousand eight hundred; and the Act entitled "An Act supplementary to An Act entitled An Act to prevent negro slaves and persons of color from being brought into or entering this State," passed the nineteenth day of December, in the year of our Lord one thousand eight hundred and one, are found to be too rigorous and inconvenient. Preamble.

I. *Be it therefore enacted*, by the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That all clauses and parts of the said two Acts, shall be, and they are hereby, repealed, so far as they prevent citizens of other States to pass through this State to any other State or States, with negro slaves or other persons of color, bona fide their own property; *provided nevertheless*, that every person intending to pass through this State with his or her slaves, shall take and subscribe, before some justice of the quorum or of the peace, near to the place where such person shall enter this State, the following oath. Parts of former Acts repealed.

"I, A B, do swear, that the slaves which I am to carry through this State, are bona fide my property, and that I will not sell, hire or dispose of the said slaves, or either of them, to any resident or citizen, or body corporate or politic, or any other person or persons whomsoever within the State of South Carolina, but will travel directly to the place where I intend to move."

And such justice shall give him a certificate thereof; *provided also*, that the said oath be lodged in the clerk's office of the district in which the same shall be taken; and the certificate of the magistrate aforesaid, shall be countersigned by the clerk aforesaid, which certificate shall be produced to any person demanding the same. Also, so far as they prevent citizens of other States who come into this State to settle, to bring in with them negro slaves or other persons of color, bona fide their own property at the time of their bringing them in. And also, so far as they prevent any citizen of this State to bring into the same any negro slaves or other persons of color, which he, she or they may acquire or have acquired, bona fide, by descent, will, deed of gift from parents to children, the consideration of which is natural love and affection or marriage.

II. *And be it further enacted* by the authority aforesaid, That all and every person or persons removing or to remove into this State, with their slaves, shall, immediately on entering into this State, take the following oath, before some justice of the quorum.

"I, A B, do swear, that my removal into the State of South Carolina, is with no intent of evading the several laws of this State for preventing the further importation of slaves into this State; nor have I brought with me any slave or slaves, with an intention of selling them; nor will I sell or dispose of any slave or slaves so brought with me as aforesaid, within two Oath to be taken by persons moving to this State with their slaves.

A. D. 1802.

Acts relating to Slaves.

years from the date hereof; and it is my intention, bona fide, to become a resident in and citizen of the said State."

Slaves brought
into this State
contrary to
law, to be free.

And shall render to the said magistrate, at the same time, a writing under such person's hand, containing the number, names and particular descriptions of such slave or slaves. And in case any person or persons so removing into this State, as aforesaid, shall neglect or refuse to take the oath above prescribed, or after having taken such oath, shall sell or dispose of any such slave or slaves, before the expiration of the time above limited, each and every slave so brought in or sold, or disposed of as aforesaid, shall be, and they are hereby declared to be, free, in whosoever's hands they may be.

Slaves import-
ed contrary to
this Act, to be
free.

III. *And be it further enacted* by the authority aforesaid, That each and every slave who shall hereafter be imported or brought into this State, except under the limitations prescribed by this Act, shall be, and each and every of them are hereby declared to be, free, in whosoever's hands they may be.

Guardian of
slave claiming
freedom, liable
to double costs
if his action
fails.

IV. *And be it enacted* by the authority aforesaid, That the guardian of such slave claiming his or her freedom, shall be liable to double costs of suit, if his action shall be adjudged groundless, and that the said guardian shall be liable to pay the bona fide owner of such slave, all such damages as shall be assessed by a jury and adjudged by any court of common pleas.

In the Senate House, the eighteenth day of December, in the year of our Lord one thousand eight hundred and two, and of the Independence of the United States of America the twenty-seventh.

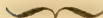
JOHN WARD, *President of the Senate.*

ROBERT STARK, *Speaker of the House of Representatives.*

No. 1811. AN ACT TO ALTER PART OF AN ACT ENTITLED "AN ACT RESPECTING SLAVES, FREE NEGROES, MULATTOES AND MESTIZOES; FOR ENFORCING THE MORE PUNCTUAL PERFORMANCE OF PATROL DUTY; AND TO IMPOSE CERTAIN RESTRICTIONS ON THE EMANCIPATION OF SLAVES."

WHEREAS, certain religious societies in this State have petitioned the Legislature to alter part of an Act entitled "An Act respecting slaves, free negroes, mulattoes and mestizoes; for enforcing the more punctual performance of patrol duty; and to impose certain restrictions on the emancipation of slaves."

I. *Be it enacted*, by the honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That, after the passing of this Act, it shall not be lawful for any person or persons, at any time before nine o'clock in the evening of any day, to break into any place of meeting wherein shall be assembled the members of any religious society of this State; *provided*, a majority of them shall be white persons; or otherwise to disturb their devotion; unless such person or persons so entering the said place, shall have first obtained from some magistrate appointed to keep the peace of the State, a warrant

*Acts relating to Slaves.*A. D. 1803.


authorizing him or them so to do; in case a magistrate shall be then actually within the distance of three miles from such place of meeting, otherwise the provisions of the above recited Act to remain in full force.

In the Senate House, the seventeenth day of December, in the year of our Lord one thousand eight hundred and three, and in the twenty-eighth year of the Independence of the United States of America.

JOHN GAILLARD, *President of the Senate.*

ROBERT STARK, *Speaker of the House of Representatives.*

AN ACT TO ALTER AND AMEND THE SEVERAL ACTS RESPECTING THE No. 1814.
IMPORTATION OR BRINGING INTO THIS STATE, FROM BEYOND SEAS,
OR ELSEWHERE, NEGROES AND OTHER PERSONS OF COLOUR; AND FOR
OTHER PURPOSES THEREIN MENTIONED.

I. *Be it enacted*, by the honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the following Acts, to wit: "An Act to prohibit the importation of slaves from Africa, or other places beyond sea, into this State, for two years; and also to prohibit the importation or bringing in of negro slaves, mulattoes, Indians, Moors or mestizoes, bound for a term of years, from any of the United States, by land or water," passed the twenty-first day of December, in the year one thousand seven hundred and ninety-two; also "An Act to revive and extend an Act entitled An Act to prohibit the importation of slaves from Africa, or other places beyond sea, into this State, for two years; and also to prohibit the importation or bringing in of negro slaves, mulattoes, Indians, Moors or mestizoes, bound for a term of years, from any of the United States, by land or water," passed the twentieth day of December, in the year one thousand seven hundred and ninety-four; also, "An Act to prohibit the importation of negroes until the first day of January, one thousand seven hundred and ninety-nine," passed the nineteenth day of December, in the year one thousand seven hundred and ninety-six; also, "An Act to revive and extend an Act entitled An Act to prohibit the importation of negroes until the first day of January, one thousand seven hundred and ninety-nine, until the first day of January, one thousand eight hundred and one," passed the twenty-first day of December, in the year one thousand seven hundred and ninety-eight; also "An Act further to revive and extend an Act entitled An Act to prohibit the importation of negroes until the first day of January, one thousand seven hundred and ninety-nine, until the first day of January, one thousand eight hundred and one, to the first day of January, one thousand eight hundred and three," passed the twentieth day of December, in the year one thousand eight hundred; and also "An Act to alter and amend an Act entitled an Act to prevent negro slaves and persons of colour from being brought into or entering this State;" and also an Act supplementary to the Act aforesaid, and for other purposes therein mentioned, passed the eighteenth day of December, in the year eighteen hundred and two—shall be, and the same are hereby, repealed. Former Acts repealed.

A. D. 1803.

Acts relating to Slaves.

Importation of
negroes prohi-
bited from the
Bahama or
West India
Islands.

II. *And be it further enacted* by the authority aforesaid, That from and after the passing of this Act, no negro, mulatto, mestizo, or other person of colour, whether bond or free, shall be imported or brought into this State, or enter the same, from the Bahama or West India Islands, or from the continent of South America; nor shall any negro or person of colour, who heretofore hath been, or now is, or hereafter shall be, resident in any of the French West India islands, enter or be brought into this State, from any part or place without the limits thereof.

And also from
the sister
States.

III. *And be it further enacted* by the authority aforesaid, That no male slave above the age of fifteen years shall be imported or brought into this State, from any of our sister States, unless the person importing such negro, shall produce, and file in the office of the clerk of the district where the person so importing may reside, a certificate under the hands of two magistrates, and the seal of the court of the district where the said negro or negroes have resided for the last twelve months previous to the date of the certificate, that such negro or negroes are persons of good character, and have not been concerned in any insurrection or rebellion.

Former Acts
made of force.

IV. *And be it further enacted* by the authority aforesaid, That an Act entitled "An Act to prevent negro slaves, and other persons of colour, from being brought into or entering this State," passed the twentieth day of December, in the year one thousand eight hundred; also "An Act supplementary to an Act entitled An Act to prevent negro slaves and persons of colour from being brought into or entering this State," passed the nineteenth day of December, in the year one thousand eight hundred and one, shall be, and the same are hereby declared to be, in full force and operation, so far as the same shall or may apply to the provisions contained in the preceding clauses of this Act, and in no other. And the said Act, passed the twentieth day of December, in the year one thousand eight hundred, shall be, and the same is hereby declared to be, a perpetual Act.

Negroes enter-
ing this State
contrary to the
provisions of
this Act, to be
forfeited.

V. *And be it further enacted* by the authority aforesaid, That each and every negro and negroes, mulatto and mulattoes, mestizo and mestizoes, or other person or persons of colour whatsoever, whether free or bond, brought, sent or entering into this State, contrary to the provisions of this Act, be, and the same are hereby declared to be, forfeited, one half to the State and the other half to the informer or informers, to be recovered in the name of the State, by action, in the nature of the action of detinue, wherein it shall not be necessary to prove that the defendant in the suit was in possession of the person or persons aforesaid, at the time of commencing the same; and the said informer and informers are hereby declared competent witnesses in the aforesaid suits, in any courts in this State having cognizance thereof.

Moses Glover
and others,
permitted to
bring certain
negroes into
this State.

VI. *And whereas*, Moses Glover, Mary M'Kenzie, his mother-in-law, and the son of Mary Sophia Glover, wife of the said Moses Glover, are desirous to remove certain negroes to this State from the Bahama islands, for settlement, not exceeding one hundred and seventy slaves: *Be it therefore enacted* by the authority aforesaid, That the said Moses Glover, Mary M'Kenzie, and Moses Glover, in right of his wife, for John Hepburn, her son, shall have permission to bring the said negroes into this State. *Provided nevertheless*, that the said Moses Glover, for himself and John Hepburn, the son of the said Mary Sophia Glover, his wife, and the said Mary M'Kenzie, on the arrival of the said negroes into this State, shall make oath, before one of the associate judges of this State, that the said negroes so brought in, were bona fide their property at the time of the passing this

Acts relating to Slaves.

A. D. 1803.

Act, are negroes of good character, have never been concerned in privateering, and that they are brought in for settlement, and not for sale.

VII. And *whereas*, Thomas Hunt is desirous of bringing into this State, from the Bahama Islands, certain negroes which have been given him by his father: *Be it therefore enacted* by the authority aforesaid, That the said Thomas Hunt shall be, and he is hereby, permitted, from and after the passing of this Act, to bring into this State, from the Bahama islands, any number of the said slaves, not exceeding fifty; the said Thomas Hunt, immediately on the arrival of the said negroes in this State, going before one of the associate judges of this State, and making affidavit that the said negroes so brought in, were bona fide the property of the said Thomas Hunt, at the time of the passing of this Act, are negroes of good character, have never been concerned in privateering, and that they are brought in for settlement, and not for sale.

Thomas Hunt permitted to bring certain negroes into this State.

VIII. *And be it further enacted* by the authority aforesaid, That in all and every case where any negro, mulatto, mestizo, or other person of colour, charged with having been brought, imported, or sent, or with having come or entered into this State, contrary to any law thereof, and who shall not be claimed by any person, it shall and may be lawful to proceed against such negro, mulatto, mestizo, or other person of colour, by indictment in any court of record, in which the nature of the offence shall be stated; and upon a verdict being found in favor of the State, such person or persons shall be forfeited and sold, and the proceeds thereof appropriated as provided by law: And also, that the mode of trial before magistrates and freeholders, prescribed by an Act entitled "An Act to prevent negro slaves and other persons of colour from being brought or entering into this State," passed the twentieth day of December, in the year one thousand eight hundred; and also, by an Act supplementary to the same, be, and the same is hereby, abolished.

Negroes coming into this State, and not being claimed by any person, how to be proceeded against.

In the Senate House, the seventeenth day of December, in the year of our Lord one thousand eight hundred and three, and of American Independence the twenty-eighth.

JOHN GAILLARD, *President of the Senate.*

ROBERT STARK, *Speaker of the House of Representatives.*

AN ACT TO PROHIBIT THE IMPORTATION OF SLAVES INTO THIS STATE No. 2107.
FROM ANY OF THE UNITED STATES; AND FOR OTHER PURPOSES
THEREIN MENTIONED.

I. *Be it enacted* by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That from and after the passing of this Act, no slave, nor any negro, Indian, Moor, mulatto or mestizo, bound to service for life or a term of years, shall be brought into this State from any of the United States, or any of the territories or countries bordering thereon: and if any slave, or any negro, Indian, Moor, mulatto or mestizo, bound to service for a term of years, shall be imported or brought into this State contrary to the true intent and meaning of this Act, such slave or slaves, negro, Indian, Moor, mulatto or mestizo, shall be deemed and taken as a forfeiture to the State, and

No slaves to be brought into this State.

A.D. 1816.

Acts relating to Slaves.

one half of whose value shall be paid to the person or persons informing of such importation or bringing in; and the person or persons importing or bringing in such slave, negro, Indian, Moor, mulatto or mestizo, so as aforesaid, shall be liable to be indicted therefor, and upon conviction thereof, shall be fined fifty dollars for every slave, negro, Indian, Moor, mulatto or mestizo, so as aforesaid by him or them imported or brought into this State. *Provided*, that if any person shall be travelling into or through this State without any intention to reside permanently therein, with not more than two slaves, negroes, Indians, Moors, mulattoes or mestizoes in his possession, and shall, within two days after entering the State, go before some justice of the peace or quorum, and render before him, in writing, the names and description of such two slaves, negroes, Indians, Moors, mulattoes or mestizoes, and make oath that he, she or they, will not sell or attempt to sell the same, or any one of them, within this State, and that he, she or they, will not keep the same within the State longer than twelve months from the time of his having introduced them into the State; then, and in that case, the person or persons so acting, shall not, for bringing such two slaves, negroes, Indians, Moors, mulattoes, or mestizoes, within this State, be subject to the penalties of this Act; unless he, she or they, shall keep the said two slaves, negroes, Indians, Moors, mulattoes or mestizoes, or one of them, within this State for a longer term than one year; or unless he, she or they shall sell or otherwise dispose of the same, or one of them, in this State; in which case, all the penalties in this Act shall attach, as if the said slave or slaves, negro or negroes, Indians, Moors, mulattoes or mestizoes, had been originally introduced into this State for the purpose of sale. *Provided also, nevertheless*, that this Act shall not be construed to prevent any person or persons from passing through this State to any of the sister States or territories, with his, her or their negroes, slave or slaves, Indian, Moor, mulatto or mestizo, who shall have in his, her or their possession, a certificate under the hand and seal of the clerk of the court of the county from which he, she or they shall have removed, which certificate shall contain, as well the number, names and description of the negroes, slave or slaves, Indian, Moor, mulatto or mestizo, intended by him, her or them to be carried through this State, as the place to which he, she or they intend removing and settling; and also, that he, she or they shall, before entering this State with such negro slave or slaves, Indian, Moor, mulatto or mestizo, produce to some acting magistrate of this State, and one of the clerks of the courts of common pleas and sessions, the aforesaid certificate, and shall declare, on oath, before the said magistrate and clerk aforesaid, that it is not his, her or their intention to settle within the limits of this State, and that he, she or they will not sell, barter, exchange, hire, or otherwise permit the said negro slave or slaves, Indian, Moor, mulatto, or mestizo, to remain within the limits of this State for a longer space of time than thirty days.

Second offence
to be felony.

II. *And be it further enacted* by the authority aforesaid, That any person or persons offending against this Act, upon being convicted of a second offence shall be judicially declared guilty of felony, without the benefit of clergy, and punished as such.

Penalty for
purchasing
negroes bro't
in contrary to
this Act.

III. *And be it further enacted* by the authority aforesaid, That any person or persons who shall purchase such slave or slaves, negro, Indian, Moor, mulatto or mestizo, so as aforesaid imported or brought into this State, contrary to the true intent and meaning of this Act, knowing that such slave or slaves, negro, Indian, Moor, mulatto or mestizo, was imported or brought into this State so as aforesaid, shall be liable to be indicted

Acts relating to Slaves.

A. D. 1816.

therefor, and, upon conviction thereof, shall be fined the sum of four hundred dollars for every such slave, negro, Indian, Moor, mulatto or mestizo, purchased by him as aforesaid.

IV. *And be it further enacted* by the authority aforesaid, That it shall and may be lawful for any person or persons, either with or without warrant, to seize and take into his, her or their possession, any slave or slaves, negro, Indian, Moor, mulatto or mestizo, which shall be imported or brought into this State contrary to the true intent and meaning of this Act, and to lodge such slave or slaves, negro, Indian, Moor, mulatto or mestizo, in any gaol of this State; and for such purpose, any justice of the peace is hereby authorized, if required, to issue his warrant; and upon application to any one of the judges of this State at chambers, or, if in term time, in open court, for an order of sale of any such slave, negro, Indian, Moor, mulatto or mestizo, so seized as aforesaid, by the party claiming such slave or slaves, or other person or persons so seized as aforesaid, for leave to give security for the safe delivery of such slave or slaves, or other person or persons so seized as aforesaid, to abide the final determination of the court, it shall be at the discretion of the said judge, upon proper affidavit, either to grant such order, or to deliver the said slave or slaves, or other person or persons so seized as aforesaid, to the person or persons charged with bringing into this State the said slave or other person or persons so seized as aforesaid, or to any other person claiming property in the said slave, or other person so seized as aforesaid, upon good and proper security, in not less than double the value of the said slave or slaves, or other person or persons so seized as aforesaid, conditioned, that the said slave or slaves, or other person or persons so seized as aforesaid, shall be forthcoming to abide the order of the court before which such person or persons charged with having introduced or brought into this State such slave or slaves, or other person or persons so seized as aforesaid, or with having purchased such slave or slaves, or other person or persons, so seized as aforesaid, may be indicted; and the sheriff of the district making such sale, is hereby directed to pay over the proceeds thereof into the hands of the clerk of the court of sessions and common pleas, there to abide the further order of the said court.

V. *And be it further enacted* by the authority aforesaid, That on the trial of the case, if the defendant or defendants shall not prove that he, she or they purchased or otherwise legally acquired the said slave or slaves, negro or negroes, or other person or persons seized as aforesaid, within this State, previous to the passing of this Act, or that the said slave or slaves, or other person or persons so seized as aforesaid, resided in this State at the time and from the time of the passing of this Act, then he, she or they shall be taken and considered guilty of having brought or imported the same into this State contrary to the provisions of this Act; and one half the money arising from said sale shall be paid, by order of the court before which such conviction shall take place, to the person or persons who shall inform of such importation or bringing in, and the other half shall be paid into the treasury of the State; and should a verdict in said trial pass for the defendant or defendants, the amount of said sales shall be paid over to such defendant or defendants; or the said slave or slaves, or other person so seized as aforesaid, if not sold, shall be delivered over to said defendant or defendants.

VI. *And be it further enacted* by the authority aforesaid, That each and every tax collector shall require every person or persons making their tax returns, to take the following oath.

Persons accused, to prove themselves clear.

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Oath to be administered by tax collectors.

"I, A B, do solemnly swear, or affirm, (as the case may be,) that I do not own, nor have I herewith returned, to the best of my knowledge or belief, any slave or slaves brought into or sold in this State against the provisions of an Act entitled "An Act to prohibit the introduction of slaves into this State from any of the United States, and for other purposes therein mentioned," passed in December, eighteen hundred and sixteen."

Proviso in favor of purchases made before the passing of this Act.

Provided nevertheless, that nothing contained in this Act shall extend to any citizen or citizens of this State, who may have purchased any slave or slaves without the limits of this State, previous to the passing of this Act, and shall bring into the said State such slave or slaves so purchased previous to the passing of this Act, and previous to the fifth day of January next.

In the Senate House, the nineteenth day of December, in the year of our Lord one thousand eight hundred and sixteen, and in the forty-first year of the Independence of the United States of America.

JAMES R. PRINGLE, *President of the Senate.*

THOS. BENNETT, *Speaker of the House of Representatives.*

No. 2135. AN ACT TO INCREASE THE PENALTIES WHICH ARE NOW BY LAW INFLICTED ON PERSONS WHO DEAL OR TRADE WITH NEGRO SLAVES, WITHOUT A LICENSE OR TICKET FROM THEIR MASTER OR OWNER, OR THE PERSON HAVING CHARGE OF THEM.

WHEREAS, it is found by experience, that the penalties heretofore imposed on shop keepers and other traders who deal with negroes without the permission of their owners, are insufficient, and have not answered the ends intended; for remedy whereof,

I. *Be it enacted*, by the honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That from and immediately after the passing of this Act, if any shop keeper, trader, or other person, shall, at any time hereafter, by himself or any other person acting for him or her, as his or her clerk, or otherwise, directly or indirectly, buy or purchase from any slave, in any part of this State, any corn, rice, peas, or other grain, bacon, flour, tobacco, indigo, cotton, blades, hay, or any other article whatsoever, or shall otherwise deal, trade or traffic with any slave not having a permit so to deal, trade or traffic, or to sell any such article, from or under the hand of his master or owner, or such other person as may have the care and management of such slave, such shop keeper, trader, or other person, shall, for every such offence, forfeit a sum not exceeding one thousand dollars, and imprisonment not exceeding a term of twelve months, nor less than one month.

II. *And be it further enacted* by the authority aforesaid, That where any person shall purchase of any slave any article whatsoever, he shall retain in his possession the permit which such slave has produced; and that whenever any person shall be charged with having trafficked with a slave contrary to law, it shall be the duty of such person to produce the permit and to prove its authenticity; and in default of producing the permit and of proving its authenticity, such person shall be liable to the

Acts relating to Slaves.

A. D. 1817.

penalties imposed by law on the offence of trading and trafficking with slaves without permits.

In the Senate House, the eighteenth day of December, in the year of our Lord one thousand eight hundred and seventeen, and in the forty-second year of the Independence of the United States of America.

JAMES R. PRINGLE, *President of the Senate.*

THOS. BENNETT, *Speaker of the House of Representatives.*

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO PROHIBIT THE No. 2141.
IMPORTATION OF SLAVES INTO THIS STATE FROM ANY OF THE UNITED
STATES; AND FOR OTHER PURPOSES THEREIN MENTIONED."

I. *Be it enacted* by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That every inhabitant of this State, who was bona fide entitled, in his or her own right, or in the right of his wife, to any slave or slaves, on the nineteenth day of December, in the year of our Lord one thousand eight hundred and sixteen, or who now may be, or hereafter shall become, entitled to any slave or slaves, either by inheritance, bequest or marriage, shall be permitted to bring such slave or slaves into this State, on the terms and conditions hereinafter mentioned.

Slaves out of
this State, own-
ed by persons
in it, before
Dec. 19, 1816,
may be bro't in.

II. *And be it further enacted* by the authority aforesaid, That every person or persons who is an inhabitant of this State, and was entitled, in his, her or their own right, to any slave or slaves, on the nineteenth day of December, one thousand eight hundred and sixteen, or who now is, or may hereafter become, entitled to any slave or slaves, either by inheritance, bequest or marriage, he, she or they shall produce to a judge of the courts of law or equity, his own affidavit, and also the affidavit of three disinterested and respectable persons, that the said slave or slaves intended to be brought into this State, are of good and peaceable character, and were acquired by the person or persons intending to bring them into this State, by marriage, inheritance or bequest, or were owned and of right belonged to the person making such application, on the aforesaid nineteenth day of December, one thousand eight hundred and sixteen; which affidavits, if made in any other State, shall be taken before some justice or judge of the State or county from which such slave or slaves shall be brought, and shall be certified under the seal of the court of said county, that the person or persons administering such oath, is a judge or justice of peace for said county or State, and that the persons making such affidavits are of good and respectable character.

How such
slaves may be
brought in.

III. *And be it further enacted* by the authority aforesaid, That every person or persons wishing to bring into this State any slave or slaves, under the provisions of this Act, shall apply for and obtain from some judge of the court of common pleas and sessions, or judge of the court of equity, a license to bring in such slave or slaves; and such license shall certify that the provisions of this Act have been complied with. And any person who shall bring in any slave or slaves without such license, shall be liable to all the penalties and forfeitures prescribed by an Act, passed the nineteenth day

License to be
obtained to
bring slaves in-
to this State.

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Acts relating to Slaves.

of December, one thousand eight hundred and sixteen, prohibiting the importation of slaves. And it shall be the duty of any person bringing in any slave or slaves, to produce such license to any person attempting to enforce the provision of the Act of one thousand eight hundred and sixteen.

Copy of will
&c. to be pro-
duced.

IV. *And be it further enacted* by the authority aforesaid, That every person or persons wishing or intending to bring any slave or slaves into this State, shall, in addition to the affidavits aforesaid, produce to the judge or judges to whom his, her or their application may be made, a certified copy of the last will and testament of the person or persons who has or have bequeathed the slave or slaves to him, her or them, in case he, she or they claim the same by bequest; and in case he, she or they shall claim the said slave or slaves by marriage, he or they shall produce an affidavit from the person by whom the marriage ceremony was performed, or in case of his death or removal, such other satisfactory evidence of the same, and a certificate of the clerk of the county, with his seal of office thereto attached, that such person is authorized by the laws of such State to join persons in marriage; and in case such person shall claim the said slave or slaves by inheritance, he, she or they shall produce to the said judge, legal and satisfactory evidence that such slave or slaves were the property of his, her or their ancestor or other kindred, and that he, she or they are entitled to the same by inheritance; all which affidavits and certificates shall be deposited in the care of such clerk or commissioner as shall be directed by the judge hearing such application to issue the license in the next clause mentioned.

Judge to hear
petitions and
grant licenses.

V. *And be it further enacted* by the authority aforesaid, That if, on hearing the said petition or application, the judge to whom the same shall be made, shall be of opinion that such person or persons come within the provisions and meaning of this Act, then, and in that case, the said judge may issue an order to a commissioner in equity, or clerk of the court, as the case may be, to grant to the person or persons making application, a license or permit, under the seal of their respective courts, to bring such slave or slaves into this State; and for every such license, the clerk or commissioner granting the same shall receive from the person applying, two dollars.

Slaves brought
into this State,
how to be le-
vied on.

VI. *And be it further enacted* by the authority aforesaid, That no slave or slaves who may be brought into this State under the provisions of this Act, shall be liable to be levied on, seized or sold for the payment of any debt contracted before or after they are brought into this State, by any person or persons coming to reside herein, unless the plaintiff at whose suit such slave or slaves are levied or seized on, shall, at the time of filing his, her or their declaration, or at the time of issuing their process, make oath, before the clerk of the court, that the debt or demand is justly due to him, her or them, and that the said suit or action is not commenced or prosecuted with a desire, intention or design to defeat the operation of this Act, or of the Act to which it is an amendment.

No slave
brought into
this State un-
der the provi-
sions of this
Act, to be dis-
posed of within
three years.

VII. *And be it further enacted* by the authority aforesaid, That no slave or slaves who may, in pursuance of the provisions of this Act, be brought into this State by any person or persons, shall be sold, bartered, exchanged, hired, or in any other way disposed of, at any time within three years after they shall be so brought in; and if any person or persons shall in any manner sell, barter, exchange, hire, or in any other way dispose of the said slave or slaves, the person or persons who shall or may be concerned in parting from or acquiring any right, title, interest or claim in the said slave or slaves, or in or to the service or hire of such slave or slaves, shall

Acts relating to Slaves.

A. D. 1817.

be, and they are hereby declared, liable to all the pains, penalties and forfeitures imposed by the Act to which this is an amendment, on persons bringing negroes into this State, contrary to the provisions thereof; and the slave or slaves so sold, bartered, hired, exchanged, or disposed of in any other way, within three years, as aforesaid, may be proceeded against and disposed of in the same manner as is prescribed by the said Act, passed on the nineteenth of December, in the year of our Lord eighteen hundred and sixteen.

VIII. *And be it further enacted* by the authority aforesaid, That no part of this Act, or of the Act passed on the nineteenth day of December, in the year of our Lord one thousand eight hundred and sixteen, entitled "An Act to prohibit the importation of slaves into this State from any of the United States, and for other purposes therein mentioned," shall be so construed as to prevent any person or persons, having in possession a plantation or plantations on the north side of Savannah river, from crossing and re-crossing the said river, with such slaves as may be necessary or convenient for the purposes of travelling, or the transportation of produce and other articles, to and from the State of Georgia.

IX. *And be it further enacted* by the authority aforesaid, That no part of the aforesaid Act or this Act shall be so construed as to prevent any person or persons residing on or near the North Carolina line, from crossing and re-crossing with such slaves as may be necessary for the purposes of travelling, or for transporting produce and other articles to and from market. *Provided nevertheless*, that if any person or persons, who shall bring any negro or negroes into this State, under the provisions of this clause, shall sell or dispose of the said slave or slaves, in any way or manner, either by sale or hire, the person or persons so selling, hiring or disposing of the same, as well as the person who may purchase or acquire any right or title to the slave or slaves, or to their hire, shall be, and they are hereby declared, liable to all the pains, penalties and forfeitures of this Act, as well as the Act passed the nineteenth day of December, one thousand eight hundred and sixteen.

X. *And be it further enacted* by the authority aforesaid, That if any slave or slaves, or any negro, Indian, mulatto, Moor or mestizo, bound to service for a term of years, or for life, shall be lodged in any gaol in this State, under the provisions of an Act to prohibit the importation of slaves into this State, from any of the United States, and no person shall appear to claim the said slave or other person, as aforesaid, within three months after such slaves or other persons have been lodged in gaol; or if the person or persons suspected of having brought into this State or purchased such slave or slaves, or other persons, as aforesaid, shall be unknown, or shall have absconded or escaped so that he cannot be proceeded against, according to the provisions of the said Act, then, and in that case, it shall and may be lawful for any judge of the courts of law or equity, at chambers, or, in term time, in open court, upon the application of the person or persons who had seized and lodged the said slave or slaves or other persons, as aforesaid, or his, her or their representative, to order the said slaves or other persons so seized and lodged in gaol, as aforesaid, to be sold by the sheriff of the district, and one half the proceeds of such sale to be paid to the person or persons so applying, upon his, her or their entering into bond, with sufficient security, to the clerk of the court of sessions and common pleas, to re-pay the said money, if at any time thereafter it should

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Acts relating to Slaves.

appear that the said slave or slaves, or other persons, had not been brought into this State in violation of the aforesaid Act of the General Assembly; the other half the proceeds of such sale to be paid into the public treasury.

In the Senate House, the eighteenth day of December, in the year of our Lord one thousand eight hundred and seventeen, and in the forty-second year of the Independence of the United States of America.

JAMES R. PRINGLE, *President of the Senate.*

THOS. BENNETT, *Speaker of the House of Representatives.*

No. 2195. AN ACT TO REPEAL THE ACT PASSED AT DECEMBER SESSION, IN THE YEAR ONE THOUSAND EIGHT HUNDRED AND SIXTEEN, AND THE AMENDATORY ACT THERETO, PASSED AT DECEMBER SESSION, ONE THOUSAND EIGHT HUNDRED AND SEVENTEEN, PROHIBITING AND RESTRICTING THE BRINGING OF NEGROES INTO THIS STATE FROM THE SISTER STATES.

I. *Be it enacted*, by the the Senate and House of Representatives, now met and sitting in General Assembly, and it is hereby enacted by the authority of the same, That from and after the passing of this Act, the Act of the Legislature entitled "An Act to prohibit the importation of slaves into this State from any of the United States; and for other purposes therein mentioned," passed the nineteenth day of December, in the year of our Lord one thousand eight hundred and sixteen; also the Act entitled "An Act to amend an Act entitled an Act to prohibit the importation of slaves into this State, from any of the United States; and for other purposes therein mentioned;" passed the eighteenth day of December, in the year of our Lord one thousand eight hundred and seventeen, be, and the same are hereby, repealed.

In the Senate House, the sixteenth day of December, in the year of our Lord one thousand eight hundred and eighteen, and in the forty-third year of the Independence of the United States of America.

JAMES R. PRINGLE, *President of the Senate.*

ROBERT Y. HAYNE, *Speaker of the House of Representatives.*

Acts relating to Slaves.

A. D. 1820.

AN ACT TO RESTRAIN THE EMANCIPATION OF SLAVES, AND TO PREVENT
 FREE PERSONS OF COLOR FROM ENTERING INTO THIS STATE; AND FOR
 OTHER PURPOSES. No. 2236.

WHEREAS, the great and rapid increase of free negroes and mulattoes in this State, by migration and emancipation, renders it expedient and necessary for the Legislature to restrain the emancipation of slaves, and to prevent free persons of color from entering into this State.

I. *Be it therefore enacted*, by the honorable the Senate and House of Representatives, now met and sitting in General Assembly, That no slave shall hereafter be emancipated but by act of the Legislature.

II. *Be it further enacted* by the authority aforesaid, That from and after the first day of March next, it shall not be lawful for any free negro or mulatto to migrate into this State; and every free negro or mulatto who shall migrate into this State contrary to this Act, shall and may be apprehended and carried by any white person, before some justice of the peace of the district or parish where he or she shall be taken; which justice is hereby authorized and required to examine such free negro or mulatto, and to order him or her to leave this State. And every free negro or mulatto so ordered to leave the State, and thereafter remaining longer than fifteen days within the same, or having left the State, and thereafter returning to this State, (unless it be in consequence of shipwreck or some other unavoidable accident, or as a seaman on board or belonging to a vessel with which he shall depart, or as a servant to any white person travelling into this State,) upon proof thereof, made before any magistrate and three freeholders, and on conviction thereof, shall be subjected to a fine of twenty dollars, and in default of the payment thereof, shall be publicly sold, after ten days notice, for a term of time not exceeding five years; and if such free negro, mulatto or mestizo, shall be found in this State after the lapse of ten days after paying such fine, or after such servitude under such sale, he, she or they shall be liable to be proceeded against in like manner, and shall be sold for the like sum, and for a term not exceeding five years, until such slave or slaves shall depart the said State.

III. *Be it further enacted* by the authority aforesaid, That every master of a vessel or other person, who shall bring into this State, by water or by land, in any vessel or land carriage, or otherwise, any free negro or mulatto, shall forfeit and pay for every such free negro or mulatto so brought, the penalty of five hundred dollars; to be recovered by action of debt, or by bill, plaint or information, in any court of record having jurisdiction of the amount; one moiety to be appropriated to the State, and the other to the prosecutor or person who shall inform thereof; and the defendant, in every such case, shall be required to give special bail. *Provided*, that this Act shall not extend to any masters of vessels bringing into this State any free negro or mulatto employed on board or belonging to such vessel, and who shall therewith depart; nor to any white person travelling into this State, having any free negro or mulatto as a servant; but if said servant shall remain longer than six months within the State, then such white person shall be subject to the penalty aforesaid, and the free negro or mulatto shall be dealt with in the manner before specified in this Act.

IV. *And be it further enacted*, That nothing herein contained shall effect any free person of color, being a native of this State, who shall re- turn within the limits of this State within two years after the passing of

No slave to be emancipated but by Act of the Legislature.

No free negro or mulatto to migrate into this State.

Penalty for bringing such persons into this State.

Those raised in the State may return

A. D. 1820.

*Acts relating to Slaves.*within two
years.

this Act; or who shall leave this State as a servant of any white person, and shall return with any white person in said capacity.

Penalty for sel-
ling free per-
sons of color.

V. *And be it further enacted* by the authority aforesaid, That if any person or persons shall hereafter bring or cause to be brought into this State, any free negro or person of color, and shall hold the same as a slave, or sell or offer the same for sale to any person or persons in this State as a slave, every such person or persons shall pay for every such free negro or free person of color, the sum of one thousand dollars, over and above the damages which may be recovered by such free negro or free person of color, to any person or persons who will sue for and recover the same; which may be done either by indictment, or action in nature of ravishment of ward, established by law.

Penalty for cir-
culating papers
calculated to
disturb the
peace.

VI. *Be it further enacted*, That if any white person shall be duly convicted of having, directly or indirectly, circulated or brought within this State, any written or printed paper, with intent to disturb the peace or security of the same, in relation to the slaves of the people of this State, such person shall be adjudged guilty of a high misdemeanor, and shall be fined not exceeding one thousand dollars, and imprisoned not exceeding one year. And if any free person of color shall be convicted, in the mode provided by law for the trial of such persons, of such offence, he or she shall, for the first offence, be sentenced to pay a fine not exceeding one thousand dollars; and for the second offence, shall be whipped, not exceeding fifty lashes, and be banished from the State; and any free person of color who shall return from such banishment, unless by unavoidable accident, shall suffer death without the benefit of clergy.

In the Senate House, the twentieth day of December, in the year of our Lord one thousand eight hundred and twenty, and in the forty-fifth year of the Independence of the United States of America.

BENJAMIN HUGER, *President of the Senate.*

PATRICK NOBLE, *Speaker of the House of Representatives.*

No. 2254. AN ACT TO PROVIDE MORE EFFECTUALLY AGAINST THE OFFENCE OF
HARBOURING NEGRO OR OTHER SLAVES.

I. *Be it enacted*, by the honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, that if any white person shall harbour, conceal or entertain any runaway or fugitive slave, such person shall be liable to be indicted for a misdemeanor, or prosecuted in a civil action for damages, at the election of the owner or person injured: and in case any person, being indicted, shall be convicted of said offence, such person shall be fined and imprisoned at the discretion of the court, not exceeding one thousand dollars fine, nor one year's imprisonment.

II. *And be it further enacted* by the authority aforesaid, That if any free negro, mulatto or mestizo shall harbour, conceal or entertain any fugitive or runaway slave, and be convicted thereof before two justices and five freeholders, he shall suffer such corporal punishment, not extending to life

Acts relating to Slaves.

A. D. 1822.

or limb, as the said justices and freeholders who try such offender, shall, in their discretion, think fit.

In the Senate House, the twentieth day of December, in the year of our Lord one thousand eight hundred and twenty-one, and in the forty-sixth year of the Independence of the United States of America.

BENJAMIN HUGER, *President of the Senate.*

PATRICK NOBLE, *Speaker of the House of Representatives.*

AN ACT FOR THE BETTER REGULATION AND GOVERNMENT OF FREE No. 2277.
NEGROES AND PERSONS OF COLOR; AND FOR OTHER PURPOSES.

I. *Be it enacted* by the honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That from and after the passing of this Act, no free negro or person of color, who shall leave this State, shall be suffered to return; and every person who shall offend herein, shall be liable to the penalties of the Act passed on the twentieth day of December, in the year one thousand eight hundred and twenty, entitled "An Act to restrain the emancipation of slaves, and to prevent free persons of color from entering into this State; and for other purposes."

Free negroes leaving this State not to return.

II. *And be it further enacted*, That every free male negro or person of color, between the ages of fifteen and fifty years, within this State, who may not be a native of said State, or shall not have resided therein five years next preceding the passing of this Act, shall pay a tax of fifty dollars per annum; and in case said tax shall not be paid, the said free male person of color shall be subject to the penalties of the Act against free persons of color coming into this State, passed on the twentieth day of December, one thousand eight hundred and twenty.

Tax on free negroes and persons of color.

III. *And be it further enacted* by the authority aforesaid, That if any vessel shall come into any port or harbour of this State, from any other State or foreign port, having on board any free negroes or persons of color, as cooks, stewards, mariners, or in any other employment on board of said vessel, such free negroes or persons of color shall be liable to be seized and confined in jail until said vessel shall clear out and depart from this State; and that when said vessel is ready to sail, the captain of said vessel shall be bound to carry away the said free negro or free person of color, and to pay the expenses of his detention; and in case of his neglect or refusal so to do, he shall be liable to be indicted, and, on conviction thereof, shall be fined in a sum not less than one thousand dollars, and imprisoned not less than two months; and such free negroes or persons of color shall be deemed and taken as absolute slaves, and sold in conformity to the provisions of the Act passed on the twentieth day of December, one thousand eight hundred and twenty, aforesaid.

No vessel to land free negroes or persons of color.

IV. *And be it further enacted* by the authority aforesaid, That the sheriff of Charleston District, and each and every other sheriff of this State, shall be empowered and specially enjoined to carry the provisions of this Act into effect; each of whom shall be entitled to one moiety of the proceeds of the sale of all free negroes and free persons of color that may

Sheriffs to carry this Act into effect.

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Acts relating to Slaves.

happen to be sold under the provisions of the foregoing clause ; *provided* the prosecution be had at his information.

Harbor-master
to report to the
sheriff.

V. *And be it further enacted*, That it shall be the duty of the harbor-master of the port of Charleston, to report to the sheriff of Charleston district, the arrival of all free negroes or free persons of color, who may arrive on board any vessel coming into the harbor of Charleston, from any other State or foreign port.

No person to
hire to slaves
their own time.

VI. *And be it enacted*, That from and after the passing of this Act, it shall be altogether unlawful for any person or persons to hire to any male slave or slaves, his or their time ; and in case any male slave or slaves be so permitted by their owner or owners, to hire out their own time, labor or service, the said slave or slaves shall be liable to seizure and forfeiture, in the same manner as has been heretofore enacted in the Act in the case of slaves coming into this State contrary to the provisions of the same.

Free negroes
to have guar-
dians.

VII. *And be it further enacted*, That from and after the first day of June next, every free male negro, mulatto or mestizo in this State, above the age of fifteen years, shall be compelled to have a guardian, who shall be a respectable freeholder of the district in which said free negro, mulatto or mestizo shall reside. And it shall be the duty of the said guardian to go before the clerk of the court of the said district, and before him signify his acceptance of the trust, in writing ; and, at the same time, he shall give to the clerk aforesaid, his certificate, that the said negro, mulatto or mestizo for whom he is guardian, is of good character and correct habits ; which acceptance and certificate shall be recorded in said office, by the clerk, who shall receive for the same fifty cents ; and if any free male negro, mulatto or mestizo shall be unable to conform to the requisitions of this Act, then, and in that case, such person or persons shall be dealt with as this Act directs for persons of color coming into this State contrary to law ; and the amount of sale shall be divided, one half to the informer, and the other half for the use of the State.

Persons raising
rebellion to be
adjudged
felons.

VIII. *And be it further enacted* by the authority aforesaid, That if any person or persons shall counsel, aid or hire any slave or slaves, free negroes or persons of color, to raise a rebellion or insurrection within this State, whether any rebellion or insurrection do actually take place or not, every such person or persons, on conviction thereof, shall be adjudged felons, and suffer death without benefit of clergy.

Justices ex-of-
ficio appointed.

IX. *And be it further enacted* by the authority aforesaid, That the commissioners of the cross roads for Charleston Neck, be, and they are hereby declared to be, justices of the peace, ex-officio, in that part of the parish of St. Philip's without the corporate limits of Charleston, for all purposes, except for the trial of causes small and mean.

In the Senate House, the twenty-first day of December, in the year of our Lord one thousand eight hundred and twenty-two, and in the forty-seventh year of the Independence of the United States of America.

JACOB BOND FOM, *President of the the Senate.*

PATRICK NOBLE, *Speaker of the House of Representatives.*

Acts relating to Slaves.

A. D. 1823.

No. 2319.

AN ACT THE MORE EFFECTUALLY TO PROHIBIT FREE NEGROES AND PERSONS OF COLOUR FROM ENTERING INTO THIS STATE; AND FOR OTHER PURPOSES.

I. *Be it enacted*, by the honorable the Senate and House of Representatives, now met and sitting in General Assembly, That from and after the passing of this Act, it shall not be lawful for any free negro or person of colour to migrate into this State, or be brought or introduced into its limits, under any pretext whatever, by land or by water. And in case any such free negro or person of color, (not being a seaman on board of any vessel arriving within this State,) shall migrate into or be introduced into this State, contrary to this Act, he shall and may be carried by any white person before some justice of the peace of the district or parish where he or she shall be taken, which justice is hereby required to summon three freeholders and form a court to examine such free negro or person of color, and on conviction, to order him or her to leave the State; and every free negro or person of color, so ordered to leave the State, and thereafter remaining longer than fifteen days within the same, or having left the State and thereafter returning to the same, upon proof thereof made before any magistrate and three freeholders, and on conviction thereof, shall be subjected to be sentenced to such corporal punishment as the said magistrate and freeholders shall, in their discretion, think fit to order. And if, after the said sentence of punishment, such free negro or person of color shall again remain longer in this State than fifteen days, or having left the State shall thereafter return to the same, upon proof thereof before any magistrate and three freeholders, as aforesaid, and on conviction thereof, the said magistrate and freeholders shall adjudge the said free negro or person of color to suffer corporal punishment a second time; and for every repetition of the offence of remaining in this State contrary to this Act, or of coming into the same after departing therefrom, such free negro or person of color shall be liable to be proceeded against in like manner; and so on until such free negro or person of color shall cease to violate this Act.

II. *And be it further enacted* by the authority aforesaid, That it shall not be lawful for any free negro or person of color to come into this State, on board of any vessel, as a cook, steward, mariner, or in any other employment on board of such vessel. And in case any vessel shall arrive in any port or harbour of this State, from any other State or foreign port, having on board any free negro or person of color employed on board such vessel as a cook, steward, mariner, or in any other employment, it shall be the duty of the sheriff of the district in which such port or harbour is situated, immediately on the arrival of such vessel, to apprehend such free negro or person of color, so arriving contrary to this Act, and to confine him closely in jail until such vessel shall be hauled off from the wharf, and ready to proceed to sea; and that when said vessel is ready to sail, the captain of said vessel shall be bound to carry away the said free negro or person of color, and to pay the expences of his detention; and in case such captain shall refuse or neglect to pay the said expences, and to carry away the said free negro or person of color, he shall forfeit and pay the sum of one thousand dollars, and be liable to be indicted therefor, and also to suffer imprisonment for any term or time not exceeding six months.

III. *And be it further enacted* by the authority aforesaid, That whenever any free negro or person of color shall be apprehended and committed to jail as having arrived in any vessel in the capacity of a cook, steward,

No free negro
or person of
color to come
into this State.

No negro to
come into this
State on board
of any vessel.

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Negroes imprisoned under this Act, how to be dealt with.

mariner, or otherwise, contrary to this Act, it shall be the duty of the sheriff, during the confinement in jail of such free negro or person of color, to call upon some justice of the peace to warn such free negro or person of color never to enter the said State after he or she shall depart therefrom; and such justice of the peace shall, at the time of warning said free negro or person of color, insert his or her name in a book to be provided by the sheriff for that purpose, and shall therein specify his or her age, occupation, height and distinguishing marks; which book shall be good and sufficient evidence of such warning; for which services, the said justice shall receive the sum of two dollars, payable by the captain of the vessel. And every free negro or person of color who shall not depart the State, in case of the captain's refusing or neglecting to carry him or her away, or having departed shall ever again enter into the limits of this State, by land or by water, after being warned, as aforesaid, shall be dealt with as the first section of this Act directs for persons of color who shall migrate or be brought into this State.

Penalty for bringing free negroes into State by sea.

IV. *And be it further enacted* by the authority aforesaid, That it shall not be lawful for any master or captain of any vessel, or for any other person, to introduce or bring into the limits of this State any free negro or person of color, as a passenger, or as cook, mariner, steward, or in any other capacity, on board of such vessel, whose entrance into this State is prohibited by this Act; and if any master or captain of any vessel, as aforesaid, shall bring in or introduce into this State any such free negro or person of color, whose entrance is prohibited, as aforesaid; or if any other person shall introduce by land, as a servant, any free negro or person of color, every such person shall, for the first offence, be fined in a sum not exceeding one hundred dollars; and for the second offence, be liable to forfeit and pay, for each free negro or person of color so brought into this State, the sum of one thousand dollars, and shall, moreover, be liable to be imprisoned for any term or time not exceeding six months.

Free persons of color leaving this State not to return.

V. *And be it further enacted* by the authority aforesaid, That it shall not be lawful for any free negro or person of color, who has left the State at any time previous to the passing of this Act, or for those who may hereafter leave the State, ever to return again into the same, without being subject to the penalties of the first section of this Act, as fully as if they had never resided therein.

Slaves from certain places not to be brought into this State.

VI. *And be it further enacted* by the authority aforesaid, That it shall not be lawful for any citizen of this State or other person, to bring into this State, under any pretext whatever, any slave or slaves, from any port or place in the West Indies, or Mexico, or any part of South America, or from Europe, or from any sister State, which may be situated to the north of the river Potomac, or the city of Washington. Neither shall it be lawful for any person to bring into this State, as a servant, any slave who has been carried out of the same, if at any time during the absence of such slave from this State, he or she hath been in ports or places situated in Europe, in the West Indies, or Mexico, or any part of South America, or in the States north of the river Potomac, or city of Washington. And any person who shall bring into this State any slave, contrary to the meaning of this Act, shall forfeit and pay the sum of one thousand dollars, and the said slave shall be a forfeiture to the State.

VII. *And be it further enacted* by the authority aforesaid, That all free negroes and persons of color, and all other persons, shall be exempted from the operation of this Act, where such free negroes and persons of color

Acts relating to Slaves.

A. D. 1823.

and slaves have arrived within the limits of this State by shipwreck or stress of weather, or other unavoidable accident. But such free negroes or persons of color and other persons shall, nevertheless, be subject to the penalties of this Act, if the requisites of the same be not complied with within one month after such shipwreck, stress or weather, or other unavoidable accident.

VIII. *And be it further enacted* by the authority aforesaid, That this Act shall not extend to free negroes or persons of color who shall arrive in any port or harbor of this State, as cooks, stewards, mariners, or as otherwise employed in any vessels of war of the United States navy, or on board any national vessel of the navies of any of the European or other powers in amity with the United States, unless said free negroes and persons of color shall be found on shore after being warned by the sheriff, or his deputy, to keep on board of their vessels. Nor shall this Act extend to free American Indians, free Moors, or Lascars, or other colored subjects of countries beyond the cape of Good Hope, who may arrive in this State, in any merchant vessel; but such persons only shall be deemed and adjudged to be persons of color within the meaning of this Act, as shall be descended from negroes, mulattoes and mestizoes, either on the father's or mother's side.

IX. *And be it further enacted* by the authority aforesaid, That in case any master or mate of any vessel, on his arrival, shall make any false return to the sheriff or his deputy, of the number of persons he may have on board, whose entrance shall be prohibited by this Act, he shall forfeit and pay the sum of one thousand dollars; and any master of a vessel, or other person, opposing the sheriff or his deputy in the execution of his duty, and all persons aiding and abetting him therein, shall be liable to be indicted and pay a fine of one thousand dollars, and be imprisoned for any term not exceeding six months.

X. *And be it further enacted*, That any sheriff who shall wilfully neglect or refuse to perform the duties required by this Act, shall forfeit and pay five hundred dollars; one half to the informer, and the other for the use of the State, to be recovered by action of debt, in any court having jurisdiction.

XI. *And be it further enacted* by the authority aforesaid, That all prosecutions under this Act may be maintained without limitation of time; and all penalties or forfeitures imposed thereby, may be recovered in any court of record in this State, one half of which shall go into the public treasury, and the other half to the person informing: *Provided, however*, that no prosecution shall be permitted against the masters of vessels, or any other white persons, from any part of the United States, in less than three months, or against captains of vessels from foreign ports, in less than six months, after the passing of this Act.

XII. *And be it further enacted* by the authority aforesaid, That so much of an Act passed on the twentieth of December, one thousand eight hundred and twenty, entitled "An Act to restrain the emancipation of slaves, and to prevent free persons of color from entering into this State; and for other purposes;" and also, so much of another Act, passed on the twenty-first of December, one thousand eight hundred and twenty-two, entitled "An Act for the better regulation and government of free negroes and persons of color; and for other purposes," as are repugnant to this Act, and so much thereof as makes it the duty of the harbor-master to report to the sheriff the arrival of all free negroes in the harbor of Charleston, be, and the same are hereby, repealed.

A. D. 1825.

Acts relating to Slaves.

Free negroes
not to carry
fire-arms.

XIII. *And be it further enacted* by the authority aforesaid, That no free negro or other free person of color, shall carry any fire-arms or other military weapons, abroad, except with a written ticket from his or their guardian, under pain of forfeiting the same, and being fined or whipped, at the discretion of any magistrate and three freeholders, before whom he or they may be convicted thereof. Nor shall any free person of color be hereafter employed as a pioneer, though he may be subjected to military fatigue duty, when called on.

In the Senate House, the twentieth day of December, in the year of our Lord one thousand eight hundred and twenty-three, and in the forty-eighth year of the Independence of the United States of America.

JACOB BOND TON, *President of the Senate.*

PATRICK NOBLE, *Speaker of the House of Representatives.*

No. 2361. AN ACT TO AMEND "AN ACT THE MORE EFFECTUALLY TO PROHIBIT FREE NEGROES AND PERSONS OF COLOR FROM ENTERING INTO THIS STATE; AND FOR OTHER PURPOSES."

WHEREAS, many colored persons from the northern states and elsewhere, have arrived in the ports and harbours of this State, under pretence of their being descended from free Moors, Indians and Lascars on both father's and mother's side, bringing with them certificates and papers purporting that they are of such descent, when on inspection they appear to be mulattoes or mestizoes, by means of which false papers many persons of color are introduced into this State, contrary to the intention of the Act in such case made and provided.

I. *Be it therefore enacted* by the honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That from and after the passing of this Act, if any packet or merchant vessel shall arrive in any port or harbor of this State, from any other State or foreign port, having on board any colored persons as passengers, or employed as cooks, stewards or seamen, on board of such vessel, it shall be the duty of the sheriff of the district in which such port is situated, and he is hereby empowered and required, to repair on board of such vessel, and to order the captain of such vessel to move his vessel in the stream, at a distance not less than one hundred and fifty yards from the wharf, and to load and unload his vessel with lighters. And if any captain of a vessel arriving in this State with colored persons as aforesaid, shall; after being ordered to move his vessel in the stream, approach or lie at the wharves, piers or quays of any of the ports or harbors of this State, or to load or unload otherwise than as herein directed, he shall forfeit and pay the sum of one thousand dollars; to be recovered in any court of record in this State; one half of which penalty shall go to the sheriff or other person informing, and the other moiety to the use of the State. *Provided however,* that this Act shall not extend to the proper merchant vessels of countries in which free Moors, Indians, Lascars, or other colored subjects of countries beyond the Cape of Good Hope, (heretofore excepted,) are

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A. D. 1831.

accustomed to be employed, and as sailing under the flags of the nations to which such colored persons respectively belong.

II. *And be it further enacted* by the authority aforesaid, That nothing in this Act shall be construed so as to prevent free persons of color from being taken into custody by the sheriff, or masters of vessels, and other persons, from being prosecuted under the former Act, when there is cause to believe that such persons of color are not of such descent as to exempt them from the operation of that Act; but all such arrests and prosecutions shall be maintained in the same manner as if this Act had not been passed.

III. *And be it further enacted* by the authority aforesaid, That for any wilful neglect or refusal on the part of any sheriff, to perform the duties required by this Act, he shall be subject to the same penalty which attaches to him for neglect or refusal of duties under the former Act.

In the Senate House, the twentieth day of December, in the year of our Lord one thousand eight hundred and twenty-five, and in the fiftieth year of the Independence of the United States of America.

JACOB BOND PON, *President of the Senate.*

JOHN B. O'NEALL, *Speaker of the House of Representatives.*

AN ACT CONCERNING FREE PERSONS OF COLOR AND SLAVES; AND FOR No. 2528.
OTHER PURPOSES.

I. *Be it enacted* by the Senate and House of Representatives, That from and after the first day of March next, no free person of color or slave, shall keep, use or employ a still or other vessel on his own account, for the distillation of spirituous liquors, nor be employed or concerned in vending spirituous liquors of any kind or description; and if any free person of color or slave shall offend against the true intent and meaning of this Act, he shall, on conviction thereof, be deemed guilty of a misdemeanor, and punished by whipping on the bare back, not exceeding fifty lashes, at the discretion of the court before which he shall be tried.

II. If any free person of color or slave shall be convicted of keeping, employing or using a still or other vessel for the distillation of spirituous liquors on his own account, the still or other vessel so kept, used or employed, shall be considered as forfeited. And the justice granting such warrant against such free person of color or slave, shall issue an execution directed to any constable or lawful officer, requiring him to seize and sell such still or other vessel, giving the usual public notice of sale; and the monies arising therefrom shall be paid into the hands of the commissioners of the poor, for the use of the poor of the district.

III. No owner of a slave, nor any person having charge of a slave, shall suffer such slave to be employed or concerned in vending of spirituous liquors of any kind or description, in any quantity whatever; and any person offending against the true intent and meaning hereof, shall, on conviction thereof, be held guilty of a misdemeanor, and shall be fined or imprisoned at the discretion of the court, not exceeding one hundred dollars fine, nor one month's imprisonment.

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IV. If any slave or free person of color shall hereafter commit any trespass, the commission of which by a white man would subject him to a civil action, and for which no penalty is already imposed by law on a slave or free person of color, such slave or free person of color thus trespassing, shall be adjudged guilty of a misdemeanor; and, on conviction thereof, shall be punished at the discretion of the court by which he is tried, not extending to life or member.

V. In all trials of slaves or free persons of color for capital offences, the owner of such slave or his agent, or guardian of such free person of color, for good cause shewn, to be judged of by the justices, shall have the right to challenge; *provided*, the aforesaid challenge shall not extend to more than three freeholders.

VI. No slave shall be tried for any offence, till his master or owner, or in his absence, the agent of such owner, has had reasonable notice of the matter charged against such slave, and the time and place of trial.

In the Senate House, the seventeenth day of December, in the year of our Lord one thousand eight hundred and thirty-one, and in the fifty-sixth year of the Independence of the United States of America.

H. DEAS, *President of the Senate.*

H. L. PINCKNEY, *Speaker of the House of Representatives.*

No. 2639. AN ACT TO AMEND THE LAWS IN RELATION TO SLAVES AND FREE PERSONS OF COLOR.

Penalty for
teaching a
slave to read
or write.

I. *Be it enacted*, by the honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, If any person shall hereafter teach any slave to read or write, or shall aid or assist in teaching any slave to read or write, or cause or procure any slave to be taught to read or write, such person, if a free white person, upon conviction thereof, shall, for each and every offence against this Act, be fined not exceeding one hundred dollars, and imprisoned not more than six months; or if a free person of color, shall be whipped, not exceeding fifty lashes, and fined not exceeding fifty dollars, at the discretion of the court of magistrates and freeholders before which such free person of color is tried; and if a slave, to be whipped at the discretion of the court, not exceeding fifty lashes; the informer to be entitled to one half of the fine, and to be a competent witness. And if any free person of color or slave shall keep any school, or other place of instruction, for teaching any slave or free person of color to read or write, such free person of color or slave shall be liable to the same fine, imprisonment and corporal punishment, as are by this Act imposed and inflicted on free persons of color and slaves for teaching slaves to read or write.

Penalty for
employing a
colored person
as a clerk.

II. If any person shall employ, or keep as a clerk, any slave or free person of color, or shall permit any slave or free person of color to act as a clerk or salesman, in or about any shop, store, or house used for trading, such person shall be liable to be indicted therefor, and, upon conviction

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A. D. 1834.

thererf, shall be fined for each and every offence, not exceeding one hundred dollars, and be imprisoned not exceeding six months; the informer to be a competent witness, and to be entitled to one half of the fine.

III. If any free white person, being a distiller, vender or retailer of spirituous liquors, shall sell, exchange, give, or in any otherwise deliver any spirituous liquors to any slave, except upon the written and express order of the owner or person having the care and management of such slave, such person, upon conviction, shall be imprisoned not exceeding six months, and be fined not exceeding one hundred dollars; and any free person of color or slave, shall, for each and every such offence, incur the penalties prescribed for free persons of color or slaves for teaching slaves to read or write.

Penalty for selling spirits to a slave without written orders.

IV. No license shall hereafter be granted for retailing spirituous liquors or keeping tavern, by any board of commissioners of roads or corporation having power to grant such licence, nor shall any permit be given by any clerk of any such board or corporation, unless the applicant shall have first taken and subscribed the following oath or affirmation, on his first application for a license after the passing of this Act, which oath shall be taken before a magistrate, duly qualified to administer the same, and be duly certified by him, and be by the applicant filed with the papers of the board or corporation, as the case may be; to wit: "I, A B, do swear or affirm, that I will not, directly or indirectly, during the period for which I may receive a license to retail spirituous liquors, or keep tavern, sell, give, exchange, barter, or in any otherwise deliver any spirituous liquors to any slave or slaves, contrary to the true intent and meaning of the laws for the preventing the selling, giving or delivering of spirituous liquors to slaves. So help me God." And upon every subsequent application for such license, such person, in addition to the above oath or affirmation, shall, in like manner, take and file the following additional oath: "And I do further swear or affirm, that I have not, directly or indirectly, at any time since the taking out of my last license, sold, given, exchanged, bartered, or in any otherwise delivered, any spirituous liquors to any slave; nor have I, directly or indirectly, traded, trafficked or dealt with any slave, contrary to the true intent and meaning of the laws to prevent the selling, giving, bartering or delivering of spirituous liquors to slaves, and the dealing, trading and trafficking with the same. So help me God."

Oaths required before granting licence to retail spirits.

V. Upon the trial of any person, having the use and occupation of any shop, store, or house of any kind, used for dealing, trading or trafficking, indicted for dealing, trading or trafficking with any slave or slaves, without a permit so to deal, trade or traffic, from under the hand of the owner, or person having the care and management of such slave, it shall be sufficient for the conviction of such person, to prove, upon the charge of buying from such slave, that the slave entered such shop, store, or house used for trading, with the article or articles charged in the indictment to have been sold to such defendant, and left the said shop, store, or house used for trading, without the same; and upon the charge for selling to said slave any article charged in said indictment, it shall be sufficient evidence of such sale, to prove that said slave entered said store, shop, or house used for trading, without such article, and left the said store, shop or house, with such article.

What is evidence of unlawful traffic.

VI. If any white person shall game with any free negro or person of color or slave, or shall bet upon any game played wherein one of the parties is a free negro, person of color or slave, or shall be willingly present, aiding and

Penalty for gambling with a negro.

A. D. 1835.

Acts relating to Slaves.

abetting, where any game of chance is played, as aforesaid, such person, upon conviction thereof, by indictment, shall be whipped, not exceeding thirty-nine lashes, and fined and imprisoned at the discretion of the court trying such person.

VII. This Act shall take effect from the first day of April next.

In the Senate House, the seventeenth day of December, in the year of our Lord one thousand eight hundred and thirty-four, and in the fifty-ninth year of the Independence of the United States of America.

H. DEAS, *President of the Senate.*

PATRICK NOBLE, *Speaker of the House of Representatives.*

No. 2653. AN ACT MORE EFFECTUALLY TO PREVENT FREE NEGROES AND OTHER PERSONS OF COLOR FROM ENTERING INTO THIS STATE; AND FOR OTHER PURPOSES.

I. *Be it enacted* by the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That from and after the passing of this Act, it shall not be lawful for any free negro or person of color to migrate into this State, or be brought or introduced into its limits, under any pretext whatever, by land or by water. And in case any free negro or person of color, (not being a seaman on board any vessel arriving in this State,) shall migrate into, or be introduced into, this State, contrary to this Act, it shall and may be lawful for any white person to seize and convey him or her before any magistrate of the district or parish where he or she may be taken; and it shall be the duty of the sheriff or any constable in the parish or district in which said entry shall be made, and of the city marshalls in the city of Charleston, should the entry be made in Charleston, upon information of the migration or introduction of any such free negro or person of color, to arrest and bring before some magistrate of the district or parish where the said free negro or person of color shall be taken; which magistrate is by this Act empowered to commit to prison, or, at his discretion, to hold to bail, such free negro or person of color, and to summon three freeholders and form a court, as the law directs for the trial of persons of color, and examine such free negro or person of color, within six days after his or her arrest, and, on conviction, to order him or her to leave the State, and to commit such free negro or person of color so convicted, to close prison, until such time as he or she can leave the State; or to release him or her on sufficient bail, for any time not exceeding fifteen days, at the discretion of the magistrate. And every free negro or person of color so bailed, and ordered to leave the State, as aforesaid, who shall not have left the State within the time for which he or she shall have been released on bail, or who, having left the State after conviction as aforesaid, shall return into the same, shall be arrested and committed to close prison as aforesaid; and upon proof before a court, to be constituted as this Act directs, of his or her having failed to leave the State as aforesaid, or of his or her having returned into the State after having left the same as aforesaid, he or she shall be subjected to such corporal punishment as

Prohibiting
their entrance
into this State.

Duty of officers
upon informa-
tion.

Penalty for not
leaving the
State.

Acts relating to Slaves.

A. D. 1835.

the said court in their discretion shall think fit to order. And if, after said sentence or punishment, such free negro or person of color shall still remain in the State longer than the time allowed, or having left the State, shall thereafter return to the same, upon proof and conviction thereof, before a court to be constituted as hereinbefore directed, he or she shall be sold at public sale as a slave; and the proceeds of such sale shall be appropriated and applied, one half thereof to the use of the State, and the other half to the use of the informer.

II. *And be it further enacted* by the authority aforesaid, That it shall not be lawful for any free negro or person of color to come into this State on board any vessel, as a cook, steward or mariner, or in any other employment on board such vessel; and in case any vessel shall arrive in any port or harbour of this State, from any other State or foreign port, having on board any free negro or person of color, employed on board such vessel, as a cook, steward or mariner, or in any other employment, it shall be the duty of the sheriff of the district in which such port or harbour is situated, immediately on the arrival of such vessel, to apprehend such free negro or person of color, so arriving contrary to this Act, and to confine him or her closely in jail, until such vessel shall be hauled off from the wharf, and ready to proceed to sea. And that when said vessel is ready to sail, the captain of the said vessel shall be bound to carry away the said free negro or person of color, and to pay the expenses of his or her detention. And in every such case, it shall be the duty of the sheriff aforesaid, immediately on the apprehension of any free negro or person of color, to cause said captain to enter into a recognizance, with good and sufficient security, in the sum of one thousand dollars for each free negro or slave so brought or introduced into this State, that he will comply with the requisitions of this Act; and that on his neglect, refusal or inability to do the same, he shall be compelled by the sheriff aforesaid, to haul said vessel into the stream, one hundred yards distance from the shore, and remain until said vessel shall proceed to sea. And if said vessel shall not be hauled off from the shore as aforesaid, on the order of the sheriff aforesaid, within twenty-four hours after the said order, the captain or commanding officer of said vessel shall be indicted therefor, and, on conviction, forfeit and pay one thousand dollars, and suffer imprisonment not exceeding six months.

III. *And be it further enacted* by the authority aforesaid, That whenever any free negro or person of color shall be apprehended and committed to jail, as having arrived in any vessel in the capacity of cook, steward, mariner, or otherwise, contrary to this Act, it shall be the duty of the sheriff, during the confinement in jail of such free negro or person of color, to call upon some justice of the peace or quorum, to warn such free negro or person of color, never to enter the said State, after he or she shall have departed therefrom; and such justice of the peace or quorum, shall, at the time of warning such free negro or person of color, insert his or her name in a book to be provided for that purpose by the sheriff, and shall therein specify his or her age, occupation, height, and distinguishing marks; which book shall be good and sufficient evidence of such warning. And said book shall be a public record, and be subject and open to the examination of all persons who may make application to the clerk of the court of general sessions, in whose office it shall be deposited. And such justice shall receive the sum of two dollars, payable by the captain of the vessel in which said free negro or person of color shall be introduced into this State, for the services rendered in making said entry. And every free negro or person of

Sheriff's duty.

Penalty on masters of vessels.

Sheriff's duty.

Justice's fees.

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color, who shall not depart the State, in case of the captain refusing or neglecting to carry him or her away, or having departed, shall ever again enter into the limits of this State, by land or by water, after having been warned as aforesaid, shall be dealt with as the first section of this Act directs in regard to persons of color who shall migrate or be brought into this State.

Penalty for introducing free negroes and persons of color into this State.

IV. *And be it further enacted* by the authority aforesaid, That it shall not be lawful for any master or captain of any vessel, or for any other person, to introduce or bring into the limits of this State any free negro or person of color, as a passenger, or as a cook, mariner, steward, or in any other capacity, on board of such vessel, whose entrance into this State is prohibited by this Act. And if any master or captain of any such vessel, as aforesaid, shall bring in or introduce into this State any such free negro or person of color, whose entrance is prohibited as aforesaid, or if any other person shall introduce by land, as a servant, any free negro or person of color, every such person shall, for the first offence, be indicted therefor, and on conviction, be fined in a sum not exceeding one hundred dollars; and for the second offence, be liable to forfeit and pay, for each free negro or person of color so brought into this State, the sum of one thousand dollars; and shall, moreover, be liable to be imprisoned for any term of time not exceeding six months. And such free negro or person of color, so introduced, whose entrance into this State is prohibited as aforesaid, shall be dealt with as is prescribed in the first section of this Act.

Penalty for re-turning, after leaving the State.

V. *And be it further enacted* by the authority aforesaid, That it shall not be lawful for any free negro or person of color, who has left the State at any time previous to the passing of this Act, or for those who may hereafter leave the State, ever to return again into the same, without being subject to the penalties of the first section of this Act, as fully as if they had never resided therein.

Not lawful to bring slaves from foreign parts.

Slaves taken out of the State cannot be brought back again.

VI. *And be it further enacted* by the authority aforesaid, That it shall not be lawful for any citizen of this State, or other person, to bring into this State, under any pretext whatever, any slave or slaves from any port or place in the West Indies, or Mexico, or any part of South America, or from Europe, or from any sister State situated to the North of the Potomac river, or the city of Washington. Neither shall it be lawful for any person to bring into this State, as a servant, any slave who has been carried out of the same, if, at any time during the absence of such slave from this State, he or she hath been in ports or places situated in Europe, in the West Indies, or Mexico, or any part of South America, or in any State north of the Potomac, or city of Washington; and any person who shall bring into this State any slave, contrary to the meaning of this Act, shall forfeit and pay the sum of one thousand dollars for each such slave, to be recovered in an action of debt, in any court having jurisdiction; and each and every such slave shall be forfeited as is hereinafter provided by this Act: *Provided*, that nothing herein contained shall prevent any owner from bringing into the State any runaway slave who may have been re-taken.

VII. *And be it further enacted* by the authority aforesaid, That it shall and may be lawful for any white person, on the arrival of any slave into this State from any other State or foreign port, to arrest and carry him or her before some magistrate of the district or parish where he or she may be taken; and it shall be the duty of the sheriff or any constable of the district or parish into which such slave shall be brought, as aforesaid, on information given, to arrest any slave arriving, brought or introduced into

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this State from any other State or foreign port, and carry him or her before some magistrate, as aforesaid, who shall forthwith commit such slave or slaves to prison, and there keep him or her until the owner or person introducing such slave or slaves into this State shall make oath, that at no time during the absence of such slave or slaves from this State, he, she or they have been in any port or place prohibited by this Act. And should such owner or person introducing such slave or slaves, neglect or refuse to make such oath, for the space of ten days after he or she shall have received notice of the arrest of such slave or slaves, and of the cause thereof, it shall be the duty of the magistrate aforesaid, to form a court of two magistrates and five freeholders, and on proof, to the satisfaction of such court, that such slave or slaves have been beyond the limits of this State, and that such owner or person who shall have introduced them into this State, as aforesaid, after having been duly served with the notice of such slave or slaves having been arrested, as aforesaid, and of the cause of such arrest, has neglected or refused to make oath, as aforesaid, it shall then be lawful for said court to order the said slave or slaves to be sold at public sale, and the proceeds of such sale shall go and be appropriated, one half to the State, and the other half to the use of the informer.

The power to arrest.

Method of forming court.

VIII. *And be it further enacted* by the authority aforesaid, That all free negroes and persons of color, and all other persons, shall be exempted from the operation of this Act, where such free negroes or persons of color, and slaves, have arrived within the limits of this State by shipwreck, stress of weather, or other unavoidable accident. But such free negroes or persons of color, and slaves, shall be, nevertheless, liable to arrest and imprisonment, as is provided by the second section of this Act for all free negroes or person of color migrating or introduced into this State contrary to law; and each free negro or person of color, and slaves, and all other persons, shall be subject to all the other penalties of this Act, if the requisitions of the same be not complied with within thirty days after such shipwreck, stress of weather, or other unavoidable accident.

Cases of exception.

IX. *And be it further enacted* by the authority aforesaid, That this Act shall not extend to free negroes or persons of color who shall arrive in any port or harbor of this State, as cooks, stewards, mariners, or as otherwise employed in any vessel of war of the United States navy, or on board of any national vessel of the navies of any of the European or other powers in amity with the United States, unless said free negroes or persons of color shall be found on shore after being warned by the sheriff or his deputy to keep on board their vessels. Nor shall this Act extend to free American Indians, free Moors or Lascars, or other colored subjects of countries beyond the cape of Good Hope, who may arrive in this State in any merchant vessel.

Cases of exception.

X. *And be it further enacted* by the authority aforesaid, That in case any master or mate of any vessel, on his arrival, shall make any false return to the sheriff, or his deputy, of the number of persons he may have on board, whose entrance may be prohibited by this Act, he shall forfeit and pay the sum of one thousand dollars, to be recovered by an action of debt, in any court having jurisdiction. And any master of a vessel, or other person, opposing the sheriff or his deputy, or any constable or marshal, in the execution of his duty under this Act, and all persons aiding and abetting him therein, shall be liable to be indicted, and, on conviction, fined not exceeding one thousand dollars, and be imprisoned not exceeding six months.

Penalty for false returns.

A. D. 1835.

Acts relating to Slaves.

Penalty on
masters of ves-
sels for false
returns.

XI. *And be it further enacted* by the authority aforesaid, That any sheriff, constable or marshal, who shall wilfully neglect or refuse to perform the duties required by this Act, shall forfeit and pay five hundred dollars, one half to the informer, and the other half to the use of the State, to be recovered by action of debt, in any court having jurisdiction.

XII. *And be it further enacted* by the authority aforesaid, That all prosecutions under this Act may be maintained without limitation of time. *Provided, however,* that no prosecution shall be permitted against the masters of vessels, or any other white persons from any part of the United States, in less than three months, or against captains of vessels from foreign ports in less than six months, after the passing of this Act.

Repeal of re-
pugnant Acts. XIII. *And be it further enacted* by the authority aforesaid, That so much of an Act passed on the twentieth day of December, one thousand eight hundred and twenty, entitled "An Act to restrain the emancipation of slaves, and to prevent free persons of color from entering into this State; and for other purposes;" and also so much of another Act, passed on the twenty-first day of December, one thousand eight hundred and twenty-two, entitled "An Act for the better regulation and government of free negroes and persons of color, and for other purposes," as are repugnant to this Act, and so much thereof as makes it the duty of the harbor-master to report to the sheriff the arrival of all free negroes in the harbor of Charleston; and also an Act passed on the twentieth day of December, one thousand eight hundred and twenty-three, entitled "An Act the more effectually to prohibit free negroes and persons of color from entering into this State, and for other purposes," be, and the same are hereby, repealed.

Not permitted
to carry fire-
arms.

XIV. *And be it further enacted* by the authority aforesaid, That no free negro or other free person of color shall carry any fire-arms, or other military or dangerous weapons abroad, except with a written ticket from his or their guardian, under pain of forfeiting the same, and being fined or whipped, at the discretion of any magistrate and three freeholders before whom he or they may be convicted thereof. Nor shall any free person of color be hereafter employed as a pioneer, though he may be subjected to military fatigue duty when called on.

In the Senate House, the nineteenth day of December, in the year of our Lord one thousand eight hundred and thirty-five, and in the sixtieth year of the Sovereignty and Independence of the United States of America.

H. DEAS, *President of the Senate.*

PATRICK NOBLE, *Speaker of the House of Representatives.*

ACTS RELATING TO RIVERS.

AN ACT FOR CUTTING, CLEARING AND MAKING A CONVENIENT CREEK No. 347.
OR WATER-COURSE THROUGH THAT PART OF THE LAND BELONGING TO
MR. JOHN JONES, COMMONLY CALLED THE HALLOVER.

WHEREAS, the inhabitants of the South-east part of Edisto Island, and those of that part of John's Island called Bohicket, in Colleton county, by the want of a water passage through the marsh commonly called the Hallover, have, for several years, considerably suffered, as well in the transportation of the produce of their plantations, as in giving their attendance upon any public extremity or occasion in Charlestown :

I. *Be it therefore enacted*, by his Excellency the Palatine, and the rest of the true and absolute Lords and Proprietors of Carolina, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown, for the South and West part of this Province, and by the authority of the same, That with all convenient speed, after the ratification of this Act, (at the equal charge and labor of all male persons from sixteen to sixty years of age, living and inhabiting on the south-east part of Edisto Island, viz: those of Mr. Thomas Grimball's, and those of Madam Mary Grimball's plantations ; and likewise of all the male persons from sixteen to sixty years of age, as aforesaid, living and inhabiting from the plantation of James Burt, inclusive, and all the inhabitants on Bohickett creek, on John's Island, to the plantation of the widow of Bourdieu, in John's Island aforesaid, inclusive,) a convenient creek or useful water passage be cut, made, kept clear, and in sufficient repair, through the marsh commonly called the Hallover, belonging to John Jones, of such depth and width as the commissioners hereafter named shall think fit.

II. *And be it further enacted* by the authority aforesaid, That Mr. Lawrence Dennis, Mr. Thomas Stanyarne, and Mr. John Jones, be commissioners, and they are hereby appointed commissioners, for cutting, making, finishing, mending, clearing and keeping in repair, the creek called the Hallover, aforesaid, and the same to be, (as soon and with as much speed after the ratification of this Act,) begun, finished and perfected, as the commissioners, or any two of them, in their discretion, shall think fit.

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III. *And be it further enacted* by the authority aforesaid, That the commissioners above mentioned have power, and they are hereby empowered, to direct and appoint in what part of the said creek every respective person shall labor. *Provided always*, and it is hereby intended, that no person do more, as near as possible can be computed, than his equal proportion of the labor aforesaid. And the commissioners aforesaid are hereby likewise impowered to appoint and choose so many and such overseers for taking care and overseeing the cutting and clearing of the said creek, as they, or any two of them, shall think fit and needful. And all persons concerned, are hereby commanded and required, within nine months after the ratification of this Act, to repair, they, or so many working men in their stead, with so many days provision, and such tools, as by the said commissioners or overseers they shall be ordered to bring with them, to the place appointed, and there do such labor and work, as by the commissioners or overseers aforesaid shall be directed and appointed. And if any person or persons, after notice given, as aforesaid, shall neglect or refuse to repair to the place appointed, as above mentioned, and then and there to do such work and labor as by the said commissioners or overseers he or they shall be ordered and directed, the person so neglecting or refusing shall, for every day or time he shall or doth neglect or refuse, as aforesaid, forfeit the sum of five shillings per day or time, as aforesaid, or value thereof.

IV. *And it is hereby further enacted*, That if any owner or other person or persons concerned in male persons or negroes within the precinct aforesaid, of the age aforesaid, and upon due summons, shall neglect or refuse to send his said servants or negroes, as aforesaid, (to work upon the above mentioned creek, as already specified and set forth,) shall forfeit five shillings, current money, for each day neglected or refused, for every servant or slave, as aforesaid, to be distrained by the next constable: and every overseer is hereby required to give a list of the names of all persons neglecting or refusing, as aforesaid, to any one of the commissioners aforesaid, who, joined with two or more of the said commissioners, are hereby empowered, by a warrant under their hands and seals, directed to the next constable, who is hereby required to give due obedience in the execution thereof, to distrain the goods or chattels of the person or persons so neglecting or refusing, as aforesaid, and the distress so taken, to be appraised by any three of the neighboring freeholders, and after the charge of distraining, the overplus, if any be, to be returned to the owner thereof.

V. *And be it further enacted* by the authority aforesaid, That all the money which is forfeited for not working on the creek, called the Hallover, aforesaid, pursuant to the directions of the commissioners already mentioned, shall be disposed in having such other persons employed as are willing thereto, in making, cutting, clearing and repairing the creed aforesaid.

Read three times, and Ratified in open Assembly, this 18th day of December, 1714.

CHARLES CRAVEN.
CHARLES HART.
RA. IZARD.
HUGH BUTLER.
SAM. EVELEIGH.
ROBT. DANIELL.

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A. D. 1747.

AN ACT TO IMPOWER COMMISSIONERS TO MAKE ONE OR MORE CUTS OR CREEKS IN THE PARISH OF CHRIST CHURCH, FOR THE MORE CONVENIENT TRANSPORTING OF THE GOODS CARRIED BY WATER TO CHARLESTOWN, OF THE PERSONS WITHIN THE LIMITS THEREIN MENTIONED.

No. 377.

WHEREAS, the several inhabitants of the parish of St. James Santee, inclusive, from the plantation of Mr. Richard Hall, along the sea coast to Sewee, and to the plantation of Mr. — Bonhost, inclusive; upon a north line, to the plantation of Capt. Phillip Gendron, on Santee river; northeast, to the plantation of John Hayes, on Black river; east, to the plantation of Lewis John, on Peedee river, by their humble petition to the General Assembly of this Province, setting forth that the ways and passages by water, by which they are obliged to transport their commodities to Charlestown, being very shallow and dangerous, prove very often to their great detriment, and occasions a great obstruction to their trade and business, and praying that commissioners may be appointed for cutting and making out convenient cuts or creeks, in such places as to the said commissioners shall seem fit, for the more convenient transporting of their said commodities; which said cuts or creeks are thereby likewise proposed to be made at the charge of the said inhabitants, living within the limits aforesaid.

I. *Be it therefore enacted*, by his Excellency John Lord Carterett, Palatine, and the rest of the true and absolute lords and proprietors of Carolina, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown, for the South and West part of this Province, and by the authority of the same, That the commissioners hereinafter named shall have power and authority, and they are hereby empowered and authorized, to cut one or more cuts or creeks in the parish of Christ Church aforesaid, in such place or places as to the said commissioners shall seem fit and convenient, for the more convenient transporting of the said inhabitants's goods and commodities to Charlestown; which said cuts or creeks shall be, each of them, twelve feet wide and six feet deep, at least.

II. *And be it further enacted* by the authority aforesaid, That the commissioners hereinafter named are hereby authorized and empowered to assess and levy a certain sum of money on the several inhabitants being within the limits aforesaid, for defraying the charges of cutting and making the creeks or cuts aforesaid. And in case the sum so to be raised shall happen to fall short or deficient to finish and complete the cutting and making the said cuts and creeks, that then the said commissioners shall, and are hereby authorized and empowered to, raise another sum for paying the whole charge of the cutting and making the said cuts or creeks. And the commissioners aforesaid are hereby likewise authorized, by and at the charge of the said inhabitants, from time to time, to keep the said cuts and creeks, when finished, free and open, and of the same width and depth as the same were at first made, and to scour and cleanse the same from trees or other rubbish which happen to fill up and obstruct the same, by storms and hurricanes, or otherwise howsoever. All which said sums, so to be raised and levied for cutting and making the creeks or cuts aforesaid, and keeping the same, from time to time, free and open, in manner as is herein before directed, shall be raised and levied by the commissioners

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aforesaid, on the inhabitants aforesaid, rateably and proportionably, according to the number of male negroes, Mustees, Indians and mulattoes, each of the said inhabitants are possessed of, without any distinction to be made of the said male negroes, Mustees, Indians or Mulattoes. *Provided*, they are not under sixteen nor above sixty years of age.

III. *And be it further enacted* by the authority aforesaid, That Capt. William Capers, Elias Horey, Noah Serry, Jonah Collins, and John Huggins, or any three of them, be, and are hereby declared and appointed, commissioners for cutting and making the creeks or cuts aforesaid, and for raising and levying the sums of money on the inhabitants aforesaid, for defraying the charges of the same, and for keeping the said cuts or creeks open and free, from time to time, in manner as before in this Act is directed.

IV. *And be it further enacted* by the authority aforesaid, That in case any difference shall arise between the commissioners aforesaid, touching the matters aforesaid required of them by this Act, the same shall be decided by a majority of them. And the commissioners aforesaid, or the majority of them, are hereby authorized and empowered, in case any of them shall happen to die, go off this Province, or refuse to act, or be rendered incapable to act by reason of sickness or other accident, to nominate and choose another in the room and stead of him or them so dying, going off, or refusing to act, or being rendered incapable to act, as aforesaid.

V. *And be it further enacted* by the authority aforesaid, That the commissioners aforesaid are hereby authorized and empowered to erect and build a good and sufficient bridge over Owen Daw creek, for the convenience and advantage of the inhabitants, at the equal charge of the inhabitants living within the limits aforesaid, the cost whereof to be raised and levied in the same manner as is before in this Act directed.

VI. *And lastly, it is hereby declared and enacted*, by the authority aforesaid, That the commissioners aforesaid shall have all such other powers and authorities, and be under such other restrictions and limitations, as any other commissioners for making of highways and building of bridges, or making of cuts or creeks, now have, in any part of this Province.

Read three times, and Ratified in open Assembly, the twenty-ninth day of June, 1717.

ROBT. DANIELL.
THOS. SMITH.
CHAR. HART.
FRAS. YONGE.
SAM. EVELEIGH.

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A. D. 1719.

AN ACT FOR CUTTING AND CLEARING A CREEK FROM THE HEAD OF THE
BLACK RIVER, OVER AGAINST THE LANDING OF MAJ. DAVID DURHAM,
TO THE BRIDGE NEAR THE PLANTATION OF CAPT. ROGER MOORE, IN
THE PARISH OF ST. JAMES GOOSE CREEK.

No. 410.

WHEREAS, the want of a convenient water passage, from the head of Medway river, more commonly known by the name of Black river, over against the landing of Maj. Durham, unto the bridge on the land, and near the plantation of Capt. Roger Moore, (heretofore known by the name of Goff's Bridge,) doth greatly incommode the inhabitants thereabouts, in the parish of St. James Goose Creek, in their carrying of their plantation produce to Charlestown, the mart of all commodities made thereabouts.

I. *Be it therefore enacted*, by the Honorable James Moore, Esq., Governor of this settlement, by and with the advice and consent of the council and representatives of the inhabitants, now met at Charlestown, in General Assembly for the said settlement, and by the authority of the same, That with all convenient speed after the passing of this Act, by an equal levy and labor of all the following persons, viz:—of the Honorable James Moore, Esq., Governor, Robert Stevens, George Chicken, and James Kinlock, Esqrs. Matthew Beard, the plantation called Thorowgoods, Capt Roger Moore, the late David Webster's plantation, Brian Raley, Mr. John Moore, Richard Baker, James Baker, Samuel Ruscoe, Johanna Baker, William Norman, the late Daniel Dean's plantation, Edward Keating, Edward Thomas, Richard Shingleton, Mr. Roger Sanders, John Floud, Daniel MacDaniell, Mr. John Ouldfield, Mrs. Deborah Goff, Isaac Lewis, Ebenezer Shingleton, and of their servants, as well whites as slaves, (that are males,) from sixteen to sixty years of age, one creek or water passage be made, according to the directions of the commissioners hereafter named; and that they, or any three of them, have power, and they are hereby empowered, to appoint so many and such overseers as they shall think fit, under them, to manage and oversee the persons employed in cutting and clearing the said creek. And for payment of the said overseers, while employed in that work, the said commissioners are hereby empowered to assess and levy on the inhabitants above mentioned, so much money as will defray that charge; to be collected by any constable of the parish, by virtue of a warrant for that purpose, under the hands and seals of any three or more of the said commissioners. And that every free man appointed to work at the cutting and clearing of the said creek, which shall refuse or neglect, after notice given, to work at the said creek, or in his stead to send an able servant or slave, at such time and times, with provisions and such tools as by the said commissioners, or any three of them, shall be appointed, shall, for every day he shall so neglect or refuse, forfeit seven shillings and six pence current money; and that every master, mistress, or overseer of any servants or slaves, which are hereby ordered to work at the cutting or clearing of the said creek, which shall neglect to send his servants or slaves to work at the said creek, with provisions, and such tools, and at such time and times, as shall be ordered by the commissioners, or any three of them, shall, for each servant's or slave's neglect to be sent as aforesaid, forfeit the sum of seven shillings and six pence current money, for every day. And all the forfeitures made by this Act shall be levied by warrant of distress, under the hands of the commissioners, or any three of them, by any constable of the parish to whom the same shall be directed, upon

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the goods and chattels of the persons forfeiting; and shall be disposed of by any three of the commissioners, in hiring able workmen, to work about cutting and clearing the said creek; and who are hereby empowered, for the short, easy, and more convenient way and manner of cutting and clearing the said creek, to direct the cutting of the same in or through any lands already run out, or to be run out, and to make use of any timber, wood, brush or earth, which they or the overseers shall think needful to and for the cutting and clearing of the said creek.

II. *And be it further enacted* by the authority aforesaid, That Colonel George Chickens, Capt Roger Moore, Capt. Edward Hyrne, Mr. John Ouldfield and Mr. John Moore, be, and they are hereby, appointed commissioners for the purpose aforesaid; and they, or any three of them, shall have power, and they are hereby empowered, to compound and agree with any one or more of the persons above mentioned, instead of their personal labor, to pay so much money for every day's work, which otherwise he or they ought to do, about cutting and clearing of the creek aforesaid, as by the said commissioners and persons concerned, shall be agreed unto. *Provided*, the said monies be paid at or before the beginning to work on the said creek, and the same money to be employed in hiring others to work, in cutting and clearing of the same.

III. *And be it further enacted* by the authority aforesaid, That if any of the commissioners above mentioned shall die, go off this Province, or be rendered incapable to act as such, that in any such case it shall and may be lawful for the rest of the commissioners to desire the Honorable the Governor for the time being, and he is hereby empowered, to nominate and appoint such and so many person and persons, for commissioner or commissioners, in his or their stead, who shall so die, go off this Province, or be rendered incapable to act, as aforesaid. Which commissioner or commissioners so nominated and appointed, shall have the same full powers, to all intents and purposes, as the commissioners hereinabove named; which said commissioners, and likewise those to be appointed by the Honorable the Governor as aforesaid, shall, while the creek is cutting and making clear, as hereinabove mentioned, and after the same is finished, in order to keep the same clear, open, and navigable for boats and pettyaugoes, have, and be invested with, as full powers and authority, to all intents, constructions and purposes, and likewise under the same restrictions and penalties, as any other commissioners of the high ways, or for cutting of creeks and water courses, now have and are under, by virtue of any Act or Acts now in force in this settlement.

I do assent to this Act, this 12th day of February, Anno Domini, 1719.

JAMES MOORE.

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A. D. 1726.

AN ACT FOR CUTTING AND CLEARING A CREEK, COMMONLY CALLED BIGGON CREEK. No. 417.

WHEREAS, several of the inhabitants of St. John's parish, living on or very near the creek commonly called Biggon Creek, by their humble petition to the General Assembly of this Province, have shewn and set forth, that with great charge and expense, they have made navigable the said creek, from Stone Landing to the bridge commonly called Her-man's Bridge, and that they are desirous to go on with said work, and to render the said creek more navigable; and *whereas*, it will be a very great advantage to the said inhabitants to have the said creek opened and made more navigable, for the easier transportation of their commodities to Stone Landing, and to have proper commissioners appointed for the carrying on the said work, and keeping the said creek clean and open. We pray your sacred Majesty that it may be enacted, and

I. *Be it enacted*, by the Honorable Arthur Middleton, Esq., President, by and with the advice and consent of his Majesty's honorable council, and the Assembly of this Province, and by the authority of the same, That Peter De St. Julian, Esq, Mr. Daniel Ravenell, and Mr. Paul De St. Julian, be, and are hereby, appointed commissioners for cutting and clearing the said creek; and they are hereby empowered, whenever they shall think it necessary, to meet at some convenient place near the said creek, and to summon all and every the male inhabitants, from sixteen years old to sixty years, living on the west side of Biggon Creek, that is to say:—from Biggon Bridge, to the plantation of Abraham Saunders; from thence, to the plantation of Thomas Summers, on Wassumsaw Swamp; and from thence to the plantation of Joseph Mackey, all inclusive; and all the inhabitants living on the east side of Biggon Creek, that is to say:—from Biggon Bridge, to the plantation of John Dubois, deceased; and from thence, to the plantation of John Peirce, inclusive; for whose advantage the said creek shall be cut and cleared, to cut and clear the said creek from Biggon Bridge upwards, to the plantation of Paul Trapier, deceased.

II. *And be it further enacted* by the authority aforesaid, That the several inhabitants liable to work on the said creek shall be under the same restrictions and penalties, as to themselves and slaves, as the several inhabitants of the Province are, by virtue of an Act of the General Assembly of this Province, entitled "An Act for making, mending and altering the high roads, private paths, bridges, causeways and water courses, in this his Majesty's Province of South Carolina."

III. *And be it further enacted* by the authority aforesaid, That the commissioners aforementioned shall have the same power, and shall be under the same rules and penalties, as the commissioners of the high roads, &c. of this Province.

IV. *And be it further enacted* by the authority aforesaid, That if any person or persons shall hinder or obstruct the commissioners in the execution of their duty, shall forfeit the sum of fifty pounds current money, to be recovered in any court of record, the one half to be paid the church wardens of St. John's parish, for the use of the poor of the said parish, and the other half to the commissioners for clearing the creek, to be applied for the use of the said creek.

THOMAS BROUGHTON, *Speaker.*

Charlestown, Council Chamber, 11th March, 1726.

Assented to: ARTHUR MIDDLETON.

A. D. 1734.

Acts relating to Rivers.

No. 582. AN ACT FOR CLEARING AND CLEANSING AND MAKING NAVIGABLE THE HEAD OF ASHLEY RIVER, FROM THE BRIDGE COMMONLY CALLED WARING'S BRIDGE, TO THE BRIDGE COMMONLY CALLED STEVENS'S BRIDGE, AND FROM THE SAID BRIDGE TO DORCHESTER BRIDGE, AND FROM THENCE TO THE PLANTATION OF SAMUEL WRAGG, ESQ., INCLUSIVE.

Preamble.

WHEREAS, the inhabitants and owners of lands lying adjacent to the head of Ashley river, by their humble petition to the General Assembly, have set forth, that by reason of several obstructions in the head of the said river, the navigation is become impracticable, to the great detriment of the proprietors of the adjacent lands, and have humbly prayed that they might have leave to bring in a bill, and that an Act might be passed, to appoint commissioners for clearing, cleansing, and making navigable the head of the said river; and the General Assembly having taken the said petition into consideration, and judging the same to be reasonable—we therefore pray your most sacred Majesty, that it may be enacted, and

Commissioners appointed.

I. *Be it enacted*, by his Excellency, Robert Johnson, Esq., Captain General, Governor and Commander-in-chief, in and over your Majesty's Province of South Carolina, by and with the advice and consent of his Majesty's honorable council, and the Assembly of the said Province, and by the authority of the same, That the Honorable Thomas Waring, Esq. Malachi Glaze, Esq. Samuel Stevens, Richard Eagles, Richard Waring, Esq. Joseph Blake, and Robert Wright, jr. Esq., and the survivors of them, are hereby constituted and appointed to be commissioners, for clearing, cleansing, and making navigable the head of Ashley river, from the bridge made over the said river at the plantation of the Honorable Thomas Waring, Esq. commonly called Waring's Bridge, to another Bridge made over the said river near the town of Dorchester, commonly called Stevens's Bridge; and from the said bridge commonly called Stevens's Bridge, to Dorchester Bridge; and from thence, to the easternmost side of the plantation of Samuel Wragg, Esq., inclusive. And the said commissioners hereby appointed, or the survivors of them, or any four of such survivors, are hereby authorized and empowered, at the proper costs and charges, and by the labor of the inhabitants and owners of the land lying adjacent to the head of the said river, within the bounds hereinafter directed, limited and prescribed, by themselves, their agents, workmen, servants or slaves, to make the head of the said river navigable for boats, barges, perriaugers, lighters, or other vessels, from the aforesaid bridge commonly called Waring's Bridge, to the said bridge commonly called Stevens's Bridge; and from thence, to the easternmost part of the plantation of the aforesaid Samuel Wragg, Esq., inclusive, and to continue to maintain and use such navigation, in such manner as the said commissioners, or the survivors of them, or any four of such survivors, shall think fit. And for the better carrying on, effecting, supporting and continuing the said navigation, the said commissioners, and the survivors of them, or a majority of such survivors, are hereby authorized and empowered, to clear, scour, open and enlarge, or streighten the two branches of the said river, within the bounds aforesaid, as they shall think proper and convenient, for the better navigation of boats and vessels in the said river, or any ways necessary for carrying on or effecting the said undertaking.

II And *whereas*, several tracts of land lying and being on swamps and savannas, which run into the head of the said river, are rendered in a great

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Their powers.

measure useless, by reason of the obstruction and standing of large quantities of water therein; *Be it therefore enacted* by the authority aforesaid, That a majority of the commissioners, or the survivors of them, are hereby authorized and empowered to lay out new cuts, drains, trenches or passages for water, in and through the lands which obstruct the water from running into the head of the said river, at the proper costs and charges of such person or persons as shall request the said cuts, drains or passages to be laid out, whether the same be the soil of our sovereign lord the King, or any other person, or any body politic or corporate, their heirs or successors; and the said commissioners, and the survivors of them, or any four of such survivors, are hereby also fully authorized and empowered to remove all trees, logs, timber, and other obstructions whatsoever, which may any way hinder or impede or interrupt the navigation of the said river; and they are hereby empowered and authorized, by themselves, their workmen, servants or slaves, to have free ingress, egress and regress, to and from the said river, or any part thereof, within the bounds aforesaid, through lands or plantations of any persons whatsoever, for the better and more easy and convenient carrying, conveying, and removing any materials whatsoever, for carrying on, continuing, or perfecting the cleansing, clearing, and navigation of the said river; and the said commissioners, and the survivors of them, or any four of the said survivors, are hereby fully authorized and empowered to do, perform and execute all such other matters and things as they shall think necessary and convenient, for the making and maintaining of the branches of the said river navigable, and for the preservation and improvement thereof.

III. *And be it further enacted* by the authority aforesaid, That the said commissioners, and survivors of them, or any four of such survivors, shall meet and assemble at Dorchester, in the parish of St. George in Berkley county, at least twice in every year, that is to say:—on every Easter Monday, and every first Monday in August, in every year, and at such other days and times, as the said commissioners for the time being, or a majority of them, shall think fit. *Provided*, that if the said commissioners shall meet at any other times than on the days hereby appointed, public notice of such meetings shall be given, by a writing fixed at the door of the parish church, by the said commissioners, or a majority of them, at least two days before such meeting.

When and where to meet.

IV. *And be it further enacted* by the authority aforesaid, That the clearing, cleansing, and making navigable the head of the aforesaid river, from the aforesaid bridge called Stevens's Bridge, down to the easternmost part of the plantation of the aforesaid Sam'l. Wragg, in the manner hereinbefore directed and specified, shall be done and performed at the equal charge of all the inhabitants and owners of land, who live on each side of the said river, from the easternmost part of the plantations of John Wragg and Paul Jenys, Esqrs., to the aforesaid bridge commonly called Stevens's Bridge; and also, of all the inhabitants and owners of lands, who live backwards to the northward and southward of each side of the said river, and to whom the landings on said river, within the bounds last above mentioned, are nearest, of which the commissioners aforesaid or a majority of them, for the time being, are hereby made sole judges; which said charge shall be raised by a tax or assessment on the lands and slaves of the said inhabitants and owners of lands. And the said commissioners, or the survivors of them, or any four of such survivors, are hereby fully authorized and empowered to raise such tax and assessment on the lands and slaves of the

Who liable to work.

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inhabitants and owners of lands within the bounds and limits before mentioned, in the same manner and proportion, as the general tax is or shall be from time to time assessed by Act of the General Assembly, and shall and may levy the several sums of money to be imposed and assessed on the several persons within the bounds last above mentioned, (in case of refusal of payment,) by warrant of distress, under the hands and seals of the said commissioners for the time being, or the majority of them, and sale of the offender's goods.

V. *And be it further enacted*, That the aforesaid branches of the said river, from the aforesaid bridge commonly called Stevens's Bridge, to the aforesaid bridge commonly called Waring's Bridge, shall be cleared, cleansed, and made navigable, in the manner hereinbefore directed, by the equal labor of all the male persons living and residing on such lands or plantations to which any landings between the bridges last mentioned, already used, or that shall be hereafter used upon the said river, and between the said bridges last mentioned, shall be nearest or most convenient, of which the aforesaid commissioners, or a majority of them, for the time being, shall be sole judges; and the said commissioners, or the survivors of them, or any four of such survivors, are hereby authorized and empowered, at such convenient times and seasons as they shall think fit, by warrant under their hands and seals, directed to any constable in the aforesaid parish of St. George's, to summon all the male inhabitants and slaves above the age of sixteen years, and under the age of sixty years, who shall live and reside in the bounds last above mentioned, to work and be employed in and about the clearing, cleansing, and making navigable the aforesaid river, streams and water courses, from the aforesaid bridge called Stevens's Bridge, to the aforesaid bridge called Waring's Bridge; and in case any of the said male persons living or residing within the bounds last above mentioned, shall fail to appear on any of the days or times so to be appointed, every such defaulter shall forfeit for each day's absence, a sum not exceeding ten shillings; to be recovered by warrant of distress, under the hands and seals of the said commissioners, or a majority of them, for the time being, and sale of the defaulter's goods.

Penalty on persons obstructing the passage.

VI. *And be it further enacted* by the authority aforesaid, That if any person or persons whatsoever, shall, by himself, servants or slaves, either by felling of trees, or by any other means whatsoever, either wilfully or accidentally, obstruct or interrupt the passage, course or navigation of the said river, or any of the drains, cuts, passages or water-courses leading to the same, and shall not, within two days after such obstruction or interruption happening, remove, clear and entirely take away, or cause the same to be taken away, every such offender shall forfeit the sum of five pounds, to be recovered by warrant of distress and sale of the offender's goods, as aforesaid.

Certain persons assessed.

VII. *And whereas*, several persons do hold large tracts of uncultivated lands, near or adjacent to the head of the said river, which lands, by reason of the said river's being made navigable, will be considerably increased in value, for which reason the owners of such lands, as they will receive the benefit, so they ought to contribute to the charge of making the said river navigable: *Be it therefore further enacted*, That all and every person, owner of any lands that lie within the bounds herein before mentioned, who have no settlements on such lands, either with servants or slaves, shall yearly and every year, on the twenty-ninth day of September, pay to the aforesaid commissioners the sum of ten shillings for every hundred

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acres of land, and so in proportion for a greater or lesser quantity, until the said creek shall be opened and made navigable, or until such lands shall be settled with servants or slaves. And in case the owners of such lands, or any of them, shall neglect or refuse to pay the sums from them respectively due, it shall and may be lawful for the said commissioners, or a majority of them, for the time being, to levy the same by warrant of distress and sale of the defaulter's goods, as aforesaid. But in case it shall happen that the defaulter shall have no goods or chattels in, or no goods or chattels shall be produced and shewn to the commissioners, by his agent or attorney, on which distress can be made, then it shall and may be lawful for the said commissioners, or the majority of them, for the time being, to cause to be felled and cut down upon the defaulter's lands, or any part thereof, and to make sale of so much timber or timber-trees, as will be sufficient to raise the sum or sums hereby assessed and made due and payable for such defaulter's lands, the said timber being first viewed, appraised and valued by, and certified under the hands and seals of, any two freeholders of the aforesaid parish of St. George, by the said commissioners, or the majority of them, for the time being, for that purpose to be appointed.

VIII. *And be it further enacted* by the authority aforesaid, That the commissioners aforesaid, or the majority of them, for the time being, shall have full power and authority to fix and appoint a convenient place for a landing place, at or near the aforesaid bridge commonly called Waring's bridge, and shall and may lay out a way or road from such landing place to the common or high road leading through the plantation of the said Thomas Waring, Esq., which road or way shall be used, deemed and esteemed as the King's highway, for the conveniency of all persons whatsoever, who shall have occasion to go through the same road with their carts, wagons, horses and carriages, at all times and seasons whatsoever.

IX. *And be it further enacted*, That if any of the aforesaid commissioners shall die or depart this Province, that it shall and may be lawful for the said commissioners, or the major part of them, to recommend others in their room, to his Excellency the Governor for the time being, for his approbation; and the persons so chosen and approved of, shall be invested with, and it shall and may be lawful for them, and every of them, to use and exercise, the same powers and authorities which are given to the commissioners by this Act appointed, in as full and ample manner, to all intents and purposes whatsoever, as the commissioners by this Act appointed can or lawfully may or ought to do.

X. *And be it further enacted* by the authority aforesaid, That if any person or persons whatsoever shall be sued, prosecuted or molested, for any matter or thing done by virtue or in pursuance of this Act, such person may plead the general issue, and give this Act and the special matter in evidence; and in case the plaintiff or prosecutor shall become non-suit, suffer a discontinuance, or a verdict shall pass against him, or judgment shall be given against him on demurrer, the defendant shall recover his full costs of suit, for which he shall have the same remedy as where costs are given at law. *Provided, nevertheless*, that nothing in this Act contained shall extend, or be construed to extend, to prevent or hinder any person or persons from erecting, building or making any mills, dams or wares for any purposes whatsoever, in and over any branches of the said river, creeks, streams or water-courses, out of the said river, or falling into the same, within the bounds and limits of their own lands; *provided*, that the main course and stream of the said river be not obstructed thereby, but be

Road to be made.

Vacancies, how to be filled.

The general issue may be pleaded under this Act.

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left open so that any person may pass and re-pass with boats and perriau-
gers up and down the same; any thing herein contained to the contrary
notwithstanding.

This a public
Act.

XI. *And be it further enacted*, That this Act shall be deemed and al-
lowed as a public Act, in all courts of justice in this Province, of which
all justices and judges are to take notice without pleading.

PAUL JENYS, *Speaker.*

In the Council Chamber, the 9th April, 1734.

Assented to: ROBT. JOHNSON.


No. 646. AN ACT FOR CLEARING AND OPENING THE SEVERAL CREEKS, CUT-OFFS
OR WATER-PASSAGES THEREIN MENTIONED; AND FOR REGULATING THE
BOATS AND PETTYAUGERS GOING THROUGH THE SAME.

WHEREAS, it has been found of great inconveniency and public de-
triment, that boats or pettyaugers of too great draught of water should be
suffered to enter into the several creeks, cut-offs or water-passages in this
Province, hereinafter mentioned, whereby the passage through the said
creeks and cut-offs is very frequently interrupted; for prevention whereof,
for the future, we humbly pray his most sacred Majesty that it may be
enacted,

I. *And be it enacted*, by the Honorable William Bull, Esq., President
and Commander-in-Chief, in and over his Majesty's Province of South
Carolina, by and with the advice and consent of his Majesty's Honorable
Council, and the Commons House of Assembly of this Province, and by
the authority of the same, That the several commissioners appointed for
cutting, clearing and keeping open or in repair the creeks, cuts or passages
commonly called Watt's Cut, New Cut and Wappoe, shall, and they are
hereby required and directed, within ten months next after the passing this
Act, to cause the said creeks or water-passages, namely, Watt's Cut, New
Cut and Wappoe, to be cut, cleared and opened, to the breadth of twenty
feet, and to the depth of five feet, measuring the same at high water, in the
said cuts, respectively, at a common neap tide.

II. *And be it further enacted* by the authority aforesaid, That so soon
as the said creeks, cuts or passages shall be so respectively cut, cleared and
opened, as aforesaid, the said several commissioners shall cause a post of
cedar or lightwood pine to be set up at each end of each of the said cuts
or passages, in such manner as not to obstruct the passage through the
same; which said posts shall be plainly marked and divided into feet and
half feet upwards, beginning from the bottom of the said cuts or passages,
and so to be continued to the height of six feet.

III. *And be it further enacted* by the authority aforesaid, that if any boat
or pettyauger, drawing more than four feet water, shall enter into any of
the said creeks, cuts or passages, and stick therein, so as to obstruct, in-
terrupt or hinder the passage through the said cut or cuts, the owner or
owners, master or patroon, (at the election of the party injured,) of such
boat or pettyauger, shall be subject and liable, and are hereby obliged to

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make good all such damages that shall be sustained by any person or persons who shall be retarded or hindered from passing through any of the said creeks or cuts, by such boat or pettyauger sticking therein, as aforesaid, to be recovered with costs of suit, by special action upon the case, in any court of record in this Province. *Provided, always,* that no owner or owners of any such boat or pettyauger shall be liable to answer in damages to be found by the jury, in any sum exceeding the value of such boat or pettyauger; but such owners shall be subject and liable, nevertheless, to pay full costs of suit, although such costs of suit and such damages shall exceed the value of the said boat or pettyauger.

IV. *And be it further enacted* by the authority aforesaid, That every boat or pettyauger, drawing more than three feet water when loaded, used or to be used in any of the rivers in this Province, from and after the first day of November, one thousand seven hundred and thirty-eight, shall have her draught of water fairly and visibly marked on her stern post, in feet and half feet, and shall likewise have the owner's name and place of abode, that is to say, the town or parish in which he lives, plainly marked in legible characters, in some open visible part of the said boat or pettyauger. And that every owner or owners of any such boat or pettyauger, drawing more than three feet water, as aforesaid, who shall employ or make use of the same in any of the rivers in this Province, or in passing through any of the said creeks or cuts herein before mentioned, without having their respective draughts of water, and also his or their name or names and place of abode plainly marked thereon, as aforesaid, shall forfeit and pay the sum of twenty pounds, current money, for every time such boat or pettyauger shall pass through any of the said creeks or cuts, as aforesaid, to any person or persons that will inform and sue for the same, to be recovered in manner hereinafter directed.

V. *And be it further enacted* by the authority aforesaid, That in case the commissioners hereinafter mentioned shall refuse or neglect to clear, open or cut the said creeks, cuts, or water-passages, or to set up posts therein, as is hereinbefore directed, within the time before limited for doing the same, they, and each of them, the said commissioners so refusing or neglecting to do the same, shall forfeit and pay the sum of one hundred pounds, current money of the Province aforesaid; the one half thereof to his Majesty and his heirs and successors, to be paid and applied to the use of cutting, opening and clearing the said cuts, and the other half to him or them that will inform and sue for the same.

VI. *And be it further enacted* by the authority aforesaid, That all fines, penalties, forfeitures and damages that shall arise, accrue, or are given, by virtue of this Act, not exceeding twenty pounds, current money aforesaid, shall and may be recovered in the same way and manner as debts not exceeding twenty pounds are directed to be recovered by any law or laws of this Province. And all the said fines, penalties and forfeitures exceeding the sum of twenty pounds, current money, shall and may be recovered in any court of record in this Province, by action of debt, bill, plaint, or information, wherein no essoign, protection, privilege or wager of law, or any more than one imparlance, shall be admitted or allowed.

VII. *And whereas*, the passage to and from Winyaw is much impeded, by means of the sand filling up the usual passage called the Breach; *Be it therefore enacted* by the authority aforesaid, That a cut or cuts be made and kept open at or near the head of the Barksdale's Creek to Old Tom's Creek, at the discretion of the commissioners hereafter named, sufficient

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for a boat that draws four feet water, the charge of which cut or cuts shall be borne by the inhabitants of the parish of Prince Frederick, Prince George, St. James Santee, and Christ Church, by an equal assessment on the lands and slaves of the said inhabitants, and all others who are owners of land and slaves in either of the said parishes.

VIII. *And be it enacted* by the authority aforesaid, That Mr. John Hendrick, Mr. Jonah Collins, Mr. Thomas Laroche, be, and are hereby, appointed commissioners for the making and keeping in order the said cut or cuts and to make, the said assessments, and levy the same, by warrant under their hands; which said commissioners shall be liable to the same fines and penalties, in case they refuse or neglect to make the said cut or cuts as the commissioners are, who are appointed to open and clear the New Cut, in Stono river; and shall make the said cut or cuts within the time limited to the said commissioners for the New Cut, under the penalties aforesaid; which said fines and penalties shall be levied as is heretofore prescribed by this Act.


IX. *And be it further enacted* by the authority aforesaid, That the cut or creek called Hallover, and that passage commonly called Newtown Cut, shall be cut, cleansed and kept open and regulated, as well with respect to the boats passing through the same, as the owners and masters thereof, in the same way and manner as the other water-passages before mentioned are.

X. *And be it further enacted* by the authority aforesaid, That Mr. Joseph Stanyarne, Thomas Hext, Joseph Jones, and David Hext, and Anthony Mathewes, Esqrs., be, and are hereby, appointed commissioners for the said Newtown Cut; and that Mr. Paul Hamilton, Mr. Paul Grimball, Mr. Robert Samms, Mr. Rivers Stanyarne, and Mr. John Jenkins, jun., be, and are hereby, appointed commissioners for the said creek or cut called the Hallover.

XI. *And be it further enacted* by the authority aforesaid, That in case any damages shall be recovered or any action brought against any owner or owners of any boat or pettyaugers, for such boats or pettyaugers entering into and interrupting the passage of the said creeks or cuts, or any of them, contrary to the direction of this Act, it shall and may be lawful to and for the said owner and owners, to stop the said damages, or so much as the wages of the patroon or master shall amount to, out of the wages of the master or patroon of such boat or pettyauger, and also to recover the damages which shall remain after the stoppage of such wages, by special action of the case, against such master or patroon, his executors or administrators, (if such master or patroon did enter into such creek or cut, without the special direction of such owner,) in any court of record in this province; wherein no essoign, protection, privilege, or wager at law, shall be admitted or allowed.

XII. *And be it further enacted* by the authority aforesaid, That in case any of the commissioners before mentioned, shall die, depart this Province, or refuse to act, it shall and may be lawful to and for the Governor, Lieutenant Governor, or President of this Province, to nominate and appoint one other commissioner or commissioners, in the room of him or them so dying, departing this Province, or refusing to act, who shall have the same powers and authorities as if they had been originally named in this Act.

XIII. *And be it further enacted* by the authority aforesaid, That in case any of the said commissioners hereinbefore mentioned, or any other person acting by or under their authority, shall be sued or prosecuted for any

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matter or thing, by them, or any of them, done by virtue or in pursuance of the direction of this Act, it shall and may be lawful to and for such commissioner and commissioners, and other person and persons whatsoever, so sued or prosecuted, to plead the general issue, and give this Act and the special matter in evidence. And in case the plaintiff or plaintiffs shall discontinue, become nonsuit, or a verdict shall pass against him or them, there shall be taxed and allowed to every such defendant and defendants, his and their double costs of suit, for which every defendant shall have like remedy as by law are given to other defendants.

CHARLES PINCKNEY, *Speaker.**In the Council Chamber, the 17th of March, 1738.**Assented to:*

WM. BULL.

AN ACT FOR CLEARING, CLEANSING AND MAKING NAVIGABLE BLACK RIVER, AND FOR KEEPING THE SAME OPEN AND NAVIGABLE, FROM THE NARROWS, INCLUSIVE, TO THE WESTERN BOUNDARY OF WILLIAMSBURG TOWNSHIP. No. 647.

WHEREAS, the upper part of Black river, from a place commonly called the Narrows, inclusive, is found impracticable for pettyaugers and other boats of burthen to pass, by reason of several obstructions in the same, which greatly discourages the settling and improving the lands adjacent to the said river; we therefore pray his most sacred Majesty that it may be enacted,

Preamble.

I. *And be it enacted*, by the Honorable William Bull, Esq., President and Commander-in-Chief in and over his Majesty's Province of South Carolina, by and with the advice and consent of his Majesty's Honorable Council and the Commons House of Assembly of the said Province, and by the authority of the same, That Robert Finlay, Crafton Karwan, Richard Hall, David Allen, and John Jones, and the survivors of them, are hereby constituted and appointed commissioners for cleansing, clearing and making navigable Black river, and keeping the same open and navigable, from the place commonly called the Narrows, inclusive, to the western boundary of Williamsburg township, and as far above as shall be adjudged practicable by the said commissioners and their survivors, and a majority of them. And the said commissioners hereby appointed, or the survivors of them, or any three of them, or three of such survivors, are hereby authorized and appointed, at the proper costs and charges, and by the labour of the inhabitants and owners of the lands lying adjacent to the said river, within the bounds hereafter limited and prescribed, by themselves, their agents, workmen, servants or slaves, to make the said river navigable for boats, barges, pettyaugers, lighters, or other vessels, from the Narrows aforesaid, inclusive, to the western boundary of Williamsburg township, and as far above as shall be adjudged practicable, as aforesaid, and to continue to maintain and use such navigation, in such manner as the said commissioners, or the survivors of them, or any three of them, or three of such survivors, shall think fit. And for the better carrying on or

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appointed.

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effecting, supporting and continuing the said navigation, the said commissioners, and the survivors of them, or the majority of such survivors, are hereby authorized to clear, scour, open and enlarge or straighten the said river, within the bounds aforesaid, in such manner as they shall think proper, for the better navigation of boats or vessels in the said river, or in any wise necessary for carrying on or effecting the said undertaking.

II. *And be it further enacted* by the authority aforesaid, That the majority of the commissioners, or the survivors of them, are hereby authorized and impowered to lay out new cuts, drains, trenches and passages for water, in and through the lands which obstruct the running of the said river, whether the same be the soil of our sovereign lord the King, or any other person, or any body politic or corporate. And the said commissioners, and the survivors of them, or any three of them, or three of such survivors, are hereby fully authorized and impowered to remove all trees, logs, timber, and other obstructions whatsoever, which any wise hinder, impede or interrupt the navigation of the said river; and they are hereby impowered and authorized, by themselves, their workmen, servants or slaves, to have free ingress, egress and regress to and from the said river, or any part thereof, within the bounds aforesaid, through the lands and plantations of any persons whatsoever, for carrying on, continuing or perfecting the cleansing, clearing, preserving and rendering navigable the said river. And the said commissioners, and the survivors of them, or any three of them, or three of the said survivors, are hereby fully authorized and empowered to do, perform and execute all such other matters and things, from time to time, as they shall think convenient and necessary for the making, preserving and maintaining of the said river navigable, and for the preservation and improvement thereof.

III. *And be it further enacted* by the authority aforesaid, That the clearing, cleansing and making navigable the channel of the aforesaid river, from the aforesaid place called the Narrows, inclusive, to the western boundary of Williamsburg township aforesaid, and as far above as shall be deemed practicable, as aforesaid, in manner herein directed and prescribed, shall be done and performed at the equal charge and expense of all the inhabitants and owners of lands or slaves, lying, being and residing within the limits herein after mentioned, that is to say: on all inhabitants, slaves and lands granted to any person being and residing on each side of the said river, from the Narrows aforesaid, inclusive, to Phineas Spry's plantation, inclusive, and ten miles above, and to extend on the north side of the river, (within the bounds aforesaid,) half way to Peedee river, and on the south side half way to Santee river; which bounds on the north and south, shall be parallel, as near as may be adjudged, to the general course of the said Black river; and that such charges and expenses shall be raised by a tax or assessment on all the granted lands and male inhabitants, (whites as well as blacks,) from the age of sixteen years to sixty years of age, within the limits aforesaid; the same to be done and proportioned by the said commissioners, or a majority of them, in such manner that each of the said male persons shall only be rated equal to two hundred and fifty acres of land, the said commissioners first taking the most effectual means to discover the owners of the several tracts of land granted within the bounds and limits aforesaid; and shall and may levy the several sums of money so to be imposed and assessed on the several inhabitants, slaves and owners of land within the bounds last above mentioned, (in case of refusal of payment,) by warrant of distress, under the hands and seals of the said

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commissioners for the time being, or the majority of them, and sale of the offender's goods. And in case any owner or owners of lands within the said bounds, shall have no goods or chattels upon such their lands, on which distress may be made, the said commissioners, or the majority of them, are further empowered and required to levy the sum or sums assessed in pursuance hereto, in the same manner as the collectors and enquirers of the general tax are or were impowered by any law or laws for raising the general tax, to raise and levy the same upon the lands of any persons not resident in this Province.

IV. *And be it further enacted* by the authority aforesaid, that if any person or persons whatsoever, shall, by himself or slaves, either by felling of trees or by any other means whatsoever, either wilfully or accidentally, obstruct the passage or navigation of the said river, or any of the drains, cuts, passages or water-courses leading to the same, and shall not, within three days after such obstruction or interruption happening, remove, clear and entirely take away, or cause the same to be taken away, every such offender shall forfeit the sum of ten pounds, current money, to be recovered by warrant of distress and sale of the offender's goods, as aforesaid, to be applied to the charge of clearing the said river. Penalty for obstructing the passage.

V. *And be it further enacted*, That if any of the aforesaid commissioners shall die or depart this Province, or decline acting, that it shall and may be lawful for the remaining commissioners, or the major part of them, to recommend others in their room, to his Excellency the Governor, or the Commander-in-Chief for the time being, for his approbation; and the person or persons so recommended and approved of, shall be vested with, and it shall and may be lawful for him or them, and every of them, to use and exercise, the same powers and authorities which are given to the commissioners by this Act appointed, in as full and ample manner, to all intents and purposes whatsoever, as the commissioners by this Act appointed can or may or lawfully ought to do. Vacancies, how to be filled.

VI. *And be it further enacted* by the authority aforesaid, That if any person or persons whatsoever shall be sued, prosecuted or molested, for any matter or thing done by virtue or in pursuance of this Act, such person may plead the general issue, and give this Act and the special matter in evidence. And in case the plaintiff or prosecutor shall become non-suit, suffer a discontinuance, or a verdict shall pass against him, or judgment shall be given against him on demurrer, the defendant shall recover his full costs of suit, for which he shall have the same remedy as where costs are given by law. The general issue may be pleaded under this Act.

VII. *And be it further enacted*, That this act shall be deemed and allowed as a public Act, in all courts of justice in this Province, of which all judges and justices shall take notice without pleading. This a public Act.

CHAS. PINCKNEY, *Speaker.**In the Council Chamber, the 25th day of March, 1738.*

Assented to: WM. BULL.

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No. 672. AN ACT TO CUT AND SINK DRAINS AND PASSAGES INTO THE NORTH AND WEST BRANCHES OF STONO RIVER.

WHEREAS, the waters or freshes which empty themselves into the north and west branches of Stono river, are frequently stopped up and intercepted by the falling of trees, throwing up of dams and causeways from highland to highland, and sundry other obstructions, whereby the adjacent swamps and low lands become liable to be overflowed, every spring and fall, and are rendered absolutely useless and unfit for planting and cultivation. We therefore pray his most sacred Majesty that it may be enacted,

I. *And be it enacted*, by the Honorable William Bull, Esq., Lieutenant Governor and Commander-in-chief, in and over the Province of South Carolina, by and with the advice and consent of his Majesty's honorable council, and the Commons House of Assembly of the said Province, and by the authority of the same, That William Cattel, Barnaby Bull, John Drayton, Nathaniel Wickham, and Elisha Butler, are hereby constituted and appointed commissioners, and they, and a majority of them and their survivors, are hereby authorized and empowered, to lay out, cut, sink, maintain and keep in repair, and to agree for the laying out, cutting, sinking, maintaining and keeping in repair, the following free drains or passages to carry off the said waters, at the proper costs and charges of the proprietors of the lands liable to be overflowed thereby, to wit:—one passage or drain, from that part of the north branch of Stono river which is at present navigable, through long Savannah, Wampoo Savannah, and the lowest lands which lie between the said savannahs; and from thence, to the Cypress Gall, nigh to the entrance of Cow Savannah, that crosses Jack Savannah public road, and runs between the plantations of Elihu and Susannah Baker; and from thence, to be continued in the main course of the swamp, towards Josiah Waring's plantation, to the path which leads from Capt. Taylor's to Ashley river.

II. *And be it further enacted* by the authority aforesaid, That Ralph Izard, Esq. Robt. Stevens, Philip Evans, John Miles, and Thos. Miles, are hereby constituted and appointed commissioners, and they, and a majority of them, and their survivors, are hereby authorized and empowered, to lay out, cut, sink, maintain and keep in repair, and to agree for the laying out, cutting, sinking, maintaining and keeping in repair, the following free drains or passages to carry off the said waters, at the proper costs and charges of the proprietors of the lands liable to be overflowed thereby, to wit:—a free drain or passage from the aforesaid part of the said branch of Stono river, up towards Jack Savannah, through the swamp which runs by the plantation of Mr. William Cattel, jr., and from thence, up the swamp to Mr. Edward Perry's plantation; and so to be continued to the path leading from Captain Taylor's plantation to Ashley river; and also, another free passage or drain, from the said path, down to the Horse Savannah Branch, through the plantation, late Mr. William Elliott's, deceased, to run by the north side of Carlisle's Island, and to be continued downward, until it meets with the passage hereby directed to be cut from the said north branch of Stono river, towards Jack Savannah. Such drains or passages not to exceed fifteen feet in breadth, and of no other depth than shall be necessary to discharge the said freshes, and to be carried on, as near as can be, agreeable to the natural course or stream of the said waters, and when no such course can be discovered, then through the lowest land. And all which said

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drains and other passages made by virtue of this law, are hereby declared to be no otherwise public than for discharging the said waters, and not for any other public use whatsoever. And it shall and may be lawful for any of the proprietors of lands lying on each side of the drain of fifteen feet to be dug, to plant the same, if they think proper, and to make a post and rail fence, and to fix posts for bridges, across the several drains and passages hereby intended to be cut; any thing in this law to the contrary notwithstanding. And the said commissioners are further empowered to clear, and keep clear, the banks of the said drains, for forty feet on one or the other side thereof, from all trees, logs, and other incumbrances, as they shall think most necessary; and they, and a majority of them and their survivors, are hereby authorized to lay out, cut and maintain the said passages according to the plan herein laid down; and to remove all obstructions which may in any wise impede the discharge of the said waters; and have at all times, free ingress, egress and regress, for themselves, their workmen, servants or slaves, horses or carriages, through all lands or plantations, whether the same be the soil of our sovereign lord the King, or any other person or persons, or body corporate or politic, their heirs and successors, to the said passages or intended passages, for the better and more easy and convenient carrying on, making and repairing such passages; and, generally, to do, perform and execute all such matters and things, as they shall think necessary and convenient, for making and repairing such passages, and for the preservation and improvement thereof.

III. *And be it further enacted* by the authority aforesaid, That the aforesaid William Cattel, Barnaby Ball, John Drayton, Nathaniel Wickham, and Elisha Butler, or a majority of them, shall, and they are hereby empowered and required, equally and indifferently to assess all the owners of the lands liable to be overflown by stopping up or diverting the waters or freshes of the said free drains, according to the number of acres subject to be overflown as aforesaid, from the westermost side of the plantations of Mrs. Ann Drayton, Mr. John Williams and Katherin Cattel, inclusive, downwards to the navigable part of Stono river, to defray the charge of making and keeping in repair such parts of the three drains aforesaid, as will lie within the said limits; and Ralph Izard, Robert Stevens, Philip Evans, John Miles, and Thomas Miles, or a majority of them, are hereby empowered and required, equally and indifferently to assess all the owners of lands liable to be overflown, as aforesaid, from the westermost line of the aforesaid plantations up to the said path leading from Capt. Taylor's plantation to Ashley river, to defray the charge of making and keeping in repair such part of the three drains hereby directed to be made, as will lie within the limits last aforementioned; and for the better enabling them, from time to time, to make a just and equal assessment towards finishing and completing the said drains, the said William Cattel, Barnaby Bull, John Drayton, Nathaniel Wickham, and Elisha Butler, are hereby required to enquire into the number of acres so liable to be overflown, belonging to each person or persons, from the westermost line of the plantations of Mrs. Ann Drayton, Mr. John Williams, and Mrs. Katherin Cattel, inclusive, downwards to the part of Stono river now made use of to navigate pettiaguers. And the said Ralph Izard, Robert Stevens, Philip Evans, John Miles, and Thomas Miles, to enquire into the number of acres so liable to be overflown, as aforesaid, from the said westermost line of the said plantation up the three drains, to the broad road leading from Capt. Taylor's plantation to Ashley river. And each set of the said commissioners to make complete lists or schedules thereof, and that copies of

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such lists or schedules, shall be affixed on the doors of the parish churches of St. Andrew, St. George and St. Paul's, in Colleton county, for three Sundays successively, with a notice underwritten or annexed to each copy, of meetings to be had by each set of the said commissioners, at some convenient places or dwelling houses within their respective districts, near the head of the said north branch of Stono river, and on such days as the said two sets of commissioners, or a majority of each set, shall appoint for that purpose, so that it be not within less than twenty-one days after putting up such copys, at which times and places the said commissioners shall accordingly meet, and hear and finally determine all such objections as shall be made to the justness and exactness of the said lists or schedules; and for the more easy and speedy coming at the knowledge of the truth thereof, all and every person or persons objecting as aforesaid, shall take the following oath before the said commissioners of each division, or a majority of them, who are hereby empowered to administer the same.

"I, A B, do swear, that I am not, directly or indirectly, seized or possessed of, or entitled to, or interested in, any lands liable, or which are, (to the best of my knowledge or belief,) or would be without banking at the time of the common yearly freshes, liable to be overflown by the stopping up or diverting of the waters that empty themselves into the north branch of Stono river, either in my own right or in any others right, as guardian, trustee, executor or administrator, attorney or agent, for any such lands, exceeding the quantity of — acres. So help me God."

And shall at the same time give in upon oath to the said commissioners, an exact survey of such quantity of lands belonging to him, her or them, which are, or would be without banking, liable to be overflown as aforesaid, made by a sworn deputy surveyor; and a majority of the said two sets of commissioners shall thereupon form and make just and equal rates and assessments, in proportion to the number of acres each person is respectively owner of; and in case any of the persons so assessed as aforesaid shall refuse or neglect to pay such sum or sums of money, as he, she or they shall be charged in such assessments, that then it shall be lawful for a majority of each of the said sets of commissioners, to issue warrants under their hands and seals, directed to such person or persons, within their respective divisions, whom they shall think proper to appoint, to levy the sum or sums so assessed on the defaulter or defaulters's goods, and to expose them to public sale, returning the overplus, if any there be, to the respective owners, deducting the reasonable charges for the said warrants. And the major part of the said commissioners are hereby empowered, from time to time, to nominate and appoint any one man residing within the said district, who shall be rated or charged in the said assessments, to levy the sums as aforesaid; and such person, in case of his refusal to serve or to do his duty, shall forfeit twenty pounds, current money of this Province, to be levied as aforesaid. *Provided*, the same person shall not be compelled to serve for more than one year in five years, and the said commissioners are in such case empowered to nominate any other person or persons to collect, until the whole sums assessed are levied; and the person so nominated, who shall refuse or neglect to act as collector as aforesaid, shall forfeit the like sum of twenty pounds; and the person so collecting the same, shall be entitled to, and receive out of the said monies, so by him to be collected, twelve pence in every pound, for his labor and trouble therein.

IV. And *whereas*, several parcels of land may lie back from the said intended drains and passages, and which are assessed as liable to be overflown by the freshes as aforesaid, may receive considerable damage from

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the waters standing and remaining thereon. *Be it therefore enacted* by the authority aforesaid, That the majority of each of the said two sets of commissioners, or their survivors, in their respective divisions, shall and may, upon the request or application of any person or persons whose lands shall be so situated as aforesaid, at the proper costs and charges of the party or parties so applying, lay out and cut a drain in the lowest lands, for the benefit of each body or parcel of land, not exceeding fifteen feet in breadth, for discharging of such standing water into the main drain, through all the lands and plantations so situated as aforesaid; and free ingress, egress and regress is hereby given them, in manner as is hereinbefore provided for that purpose.

V. *And be it further enacted* by the authority aforesaid, That if any person or persons shall, by himself, servants or slaves, either by felling of trees, throwing up dams, or any other means whatsoever, wilfully obstruct or interrupt any of the said free drains or passages, or the course thereof, or incumber the banks hereby directed to be cleared on each side thereof, and shall not, within three days after notice given thereof, by order of any one of the said commissioners, remove, clear and entirely take away the same, every such offender shall forfeit the sum of twenty pounds current money, to be levied as aforesaid; and the commissioners, or a majority of them, shall cause the same to be removed, cleared and taken away at the expense of the offender, which the said commissioners, or a majority of them, are hereby empowered to levy upon such offender or offenders as aforesaid; and so for every such offence, allowing three days notice between each, as aforesaid; which penalty shall be laid out in repairing, opening or clearing the said drains.

VI. *And be it further enacted* by the authority aforesaid, That the said two sets of commissioners, and the major part of them and their survivors, shall meet at some convenient places or dwelling houses in each respective division, at least once in every year, and oftener, if the majority of them shall think fit, to settle and determine all disputes and affairs relating to the said drains and passages; public notice to be given of the time and place of such meetings, by a writing to be fixed on the doors of the said parish churches, at least ten days before such meetings.

VII. *And be it further enacted* by the authority aforesaid, That if any person or persons whatsoever, by themselves, servants or slaves, shall, by any ways or means, hinder or oppose the said commissioners, themselves, servants or workmen, from cutting or sinking the said drains or passages, or clearing the banks on each side thereof, or from cutting down, falling or making use of any timber, wood, earth or stones, in or near the said drains, for mending, making or repairing the same, as aforesaid, shall, for each and every such offence, forfeit the sum of fifty pounds; to be recovered by the said commissioners, by action of debt, bill, plaint or information, in any court of record in this Province, and the money so recovered by them, to be disposed of for repairing, clearing and opening of the said drains or passages.

VIII. *And be it further enacted* by the authority aforesaid, That if any of the aforesaid commissioners shall die or depart this Province, or shall refuse or neglect to act, that it shall and may be lawful for the remaining commissioners, or the major part of them, to elect others in their room, or in default of such election, the Governor or Commander-in-chief for the time being to appoint, and the person or persons so chosen or appointed, shall be invested with, and it shall and may be lawful for them, and every

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of them, to use, exercise and enjoy, the same powers and authorities, in as full and ample manner, to all intents and purposes whatsoever, as the commissioners by this Act appointed can, or lawfully may, or ought to do.

IX. *And be it further enacted* by the authority aforesaid, That if any person or persons whatsoever shall be sued, prosecuted or molested, for any matter or thing done by virtue of this Act, such person may plead the general issue, and give this Act and the special matter in evidence; and in case the plaintiff or plaintiffs shall become nonsuit, suffer a discontinuance, or enter a *non vult ulterius prosequi*, or verdict pass, or judgment be given on demurrer against him or them, then the judge or judges of the court in which such action shall be commenced or prosecuted, shall tax and allow to every such defendant or defendants, his or their double costs of suit, and for which such person or persons shall have like remedy as is given by law to other defendants.

X. *And whereas*, the inhabitants and owners of lands whose freshes are discharged into the west branch of Stono river, have desired, by their petition, that commissioners may be appointed to lay out three passages or drains from the said west branch of Stono river, where it is at present navigable, that is to say, from the north-east corner of Mr. Capers's land, up along the channel of Cocoa Swamp, to Spoon Savannah, and from High York Causeway downwards into the said free passage or drain: *Be it therefore enacted* by the authority aforesaid, That Richard Wright and Alexander Hext, Esq., and Mr. Thomas Elliott, be, and they are hereby, appointed commissioners for making and finishing the said free drains and passages for conveying the freshes into the west branch of Stono river, as is above mentioned; and that the said commissioners, and their successors, to be appointed and nominated in manner aforesaid, shall have like powers, privileges and authorities, and be subject to the same directions, and shall proceed in the same way and manner for effecting the same, either by equal labor of their servants or slaves, or by assessment on the lands benefitted by the said drains or passages, as the commissioners appointed for making the drains or passages on the north branch of Stono river have, or are entitled unto, by any thing herein before contained.

XI. *And be it further enacted* by the authority aforesaid, That this present Act, and every matter and thing therein contained, shall be and continue in force to the full end and term of seven years, to commence from the time of making the above assessment, and from thence unto the end of the next session of the General Assembly, and no longer.

CHAS. PINCKNEY, *Speaker.*

In the Council Chamber, the 10th day of May, 1740.

Assented to: WM. BULL.

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No. 694.

AN ACT TO AMEND AND TO SUPPLY CERTAIN DEFECTS IN THE LAWS NOW IN BEING, FOR CUTTING, CLEARING, CLEANSING AND MAKING NAVIGABLE THE SEVERAL CREEKS, CUT-OFFS AND WATER PASSAGES IN THIS PROVINCE.

WHEREAS, the laws of this Province, already made, for cutting, cleaning, clearing and making navigable the several creeks, cut-offs and water-passages in this Province, have, by experience, been found to prove ineffectual, the cutting and clearing thereof having been thereby directed to be done by the personal work, labor and service of the inhabitants and their slaves, and commissioners confined and enjoined to cut no deeper than five feet, measuring the same at high water on common neap tides. To the end, therefore, that such good and necessary works may not prove abortive, but that the same may be carried on with effect, and completed, so as to answer the ends proposed in and by the several laws already made for the purposes aforesaid, we humbly pray his most sacred Majesty that it be enacted ;

I. *And be it enacted*, by the Honorable William Bull, Esq., Lieutenant-Governor and Commander-in-Chief, by and with the advice and consent of his Majesty's Honorable Council and the Commons House of Assembly of this Province, and by the authority of the same, That from and after the passing of this Act, the commissioners appointed by the several Acts of the General Assembly of this Province, now in being, for cutting, cleansing, clearing or making navigable the several creeks, cuts and water-passages in this Province, or the major part of them, in their several districts, respectively, may have power, and they are hereby impowered, at their discretion, either to cause the same to be cut, cleansed, cleared and made navigable, in such manner as they are directed by the several Acts for those purposes, already made, or at the joint and equal charge and expense of the inhabitants and owners of lands and slaves and others, already made liable to work on the several cuts, creeks and water-passages, respectively.

II. *And be it further enacted* by the authority aforesaid, That the said commissioners, or the commissioners for the time being, or the majority of any of them, within their several and respective districts, shall have power, and they are hereby impowered, to contract or agree with any person or persons who will undertake to cut, cleanse, clear or make navigable the cuts, creeks or water-passages aforesaid, respectively ; and that the sum they shall contract or agree to pay for, and other charges of and attending the work, shall be raised by a tax or assessment, to be by them made, on the several persons made liable to contribute towards doing the work ; and shall and may levy the several sums of money, so to be imposed and assessed, (in case of refusal of payment,) by warrant of distress, under their hands and seals, or under the hands and seals of the major part of them, and sale of the defaulter's goods, returning the overplus, as usual in such cases.

III. *And be it further enacted* by the authority aforesaid, That it shall and may be lawful to and for the said commissioners, or the majority of them, within their several and respective districts, to cause such creeks, cut-offs and water-passages to be cut, of such depth as to make the same of a level with the rivers, at low-water mark, on spring tides. The several

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laws already made, and now in force in this Province, for cutting, cleansing, clearing and making navigable the several creeks, cut-offs and water passages, or any other Act or Acts of the General Assembly of this Province, to the contrary notwithstanding.

IV. And *whereas*, the commissioners appointed by law for New Cut, or the majority of them, may find it necessary to cut and open a creek through the firm marsh, on a straight line, and not to cleanse the present common creek; and that the commissioners of said New Cut and Watt's Cut may the better know who are liable to work on, or be assessed for, said cuts; *Be it therefore further enacted* by the authority aforesaid, that the commissioners for New Cut, or the majority of them, shall and may, and they are hereby impowered, at their discretion, to cut and open a creek through the firm marsh, on a straight line, or to cleanse and keep open the common present creek. And it is hereby declared that the inhabitants residing to the southward and westward of New Cut, to Gibbons's, alias Bennet's Point, and the inhabitants between Ashepoo and Pon Pon rivers, inclusive, making use of any landing leading through said New Cut, except those who are liable and appointed by law to cut the creek between Ashepoo and Pon Pon rivers, at the head of the Goose Marsh, or by any Act of General Assembly, appointed to cut or be assessed for any other creek, shall be subject and liable to the expence, charge or labor in cutting, clearing and keeping open the said New Cut and Watt's Cut; any law, usage or custom to the contrary notwithstanding.

V. And that the cuts and creeks in this Province may be cut, cleansed and kept open, at the equal expence of all and every the persons concerned, and that no person or persons may escape or evade paying his or their proportionable part; *Be it therefore further enacted* by the authority aforesaid, That all the inhabitants of the several districts and divisions, appointed to cut, cleanse and keep open any creek or water-passage, shall, within thirty days after public notice given, by two or more advertisements, signed by the commissioners, respectively, or the majority of them, the same being fixed up at the most notable and public places in each district, and inserted in the gazette, if any gazette shall be published, render an account, in writing, upon oath, to the said commissioners, or any one of them, for the district where he, she they do reside, of the number of all their male whites, as well as slaves, from sixteen to sixty years of age, within the said district. And in case he, she or they do refuse or neglect so to do, each person so offending shall forfeit treble the sum such person was assessed in the last preceding year's Provincial tax within the said district or division, according to the best information or intelligence thereof, that the said commissioners shall be able to obtain; the same to be recovered by warrant of distress on the goods and chattels of the offender, under hand and seal of the majority of the several and respective commissioners, to be directed to the constable, and to be applied to the use of the creek in that district to which he or she belongs.

VI. And *whereas*, the time limited for cutting, clearing and cleansing the several cuts and creeks, by an Act entitled "An additional and explanatory Act to an Act entitled An Act to empower the several commissioners of the high roads, &c.," passed the third day of July, one thousand seven hundred and forty-one, is too short for that purpose: *Be it further enacted* by the authority aforesaid, That the commissioners appointed by the said Act, for cutting, clearing and cleansing the several cuts and creeks in this Province, shall have eighteen months from the time of passing this

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Act, for doing the same ; any thing in the said Act contained, to the contrary thereof, in any wise notwithstanding.

VII. And *whereas*, by an Act entitled "An Act for clearing and opening the several creeks, cut-offs and water-passages therein mentioned," passed the twenty-fifth day of March, one thousand seven hundred and thirty-eight, it is, among other things, enacted, that the several commissioners appointed for cutting, clearing and keeping open, or in repair, the creeks, cuts or passages commonly called Watt's Cut, New Cut, and Wappoo, shall cause the said creeks or water passages, namely, Watt's Cut, New Cut and Wappoo, to be cut, cleared and opened to the breadth of twenty feet : and *whereas*, it has since been found, by experience, that the said breadth of twenty-feet is not sufficient for Wappoo Creek, by reason of the same being to be cut through high loose land : *Be it therefore further enacted* by the authority aforesaid, That the commissioners appointed, or to be appointed, for the said Wappoo Creek, be empowered, and they are hereby empowered, to cut the said creek to the breadth of twenty-five feet ; the said in part recited Act, or any other Act, to the contrary notwithstanding.

VIII. And *be it further enacted* by the authority aforesaid, That the commissioners appointed, or to be appointed, for cutting, cleansing or making navigable the water-passage commonly called Watt's Cut, or the major part of them, shall be, and they are hereby, authorized, impowered and required, (at the expense and labor of the several inhabitants and persons that are liable to cut, cleanse or make navigable Watt's Cut,) to cut and make navigable a water-passage through the neck of marsh about two miles distance from Pon Pon river, joining on Seabrook's Island, in the great creek leading from Bennet's Point into Pon Pon river, of the same width and depth with Watt's Cut, and to cleanse and keep open and navigable the same, from time to time, after the same is made. And the said commissioners, or the major part of them, shall have all the same powers and authorities, and be subject to the same penalties, restrictions and limitations, for carrying this clause of this Act into execution, as the said commissioners have for cutting, cleansing and making navigable Watt's Cut, to all intents and purposes whatsoever.

IX. And *whereas*, many of the plantations and settlements lying in the southern parts of this Province, on Elliott's Savannah, and the Horse-Shoe Savannah, in the parish of St. Bartholomew, in Colleton county aforesaid, labor under great inconveniencies for want of proper water passages, which would, in great measure, be remedied, if the easternmost branch of Ashpoo river, commonly called the Horse-Shoe Creek, was made navigable unto the bridge over the said creek, commonly called the Horse-Shoe Bridge : *Be it therefore enacted* by the authority aforesaid, That Culcheth Golightly, Esq., Mr. Thomas Elliott, and Mr. James Ferguson, and the survivor and survivors of them, are hereby nominated, constituted and appointed commissioners for clearing, cleansing and making navigable, (for boats and pettyaugers which do not draw upwards of five feet water, when loaded,) the said Horse-Shoe Creek, from the plantation of Reginald Jackson, otherwise called Original Jackson, on the said creek, inclusive, upwards to the said Horse-Shoe Bridge, and from time to time keep the same open and navigable. And the said commissioners, or a majority of them, are hereby authorized and empowered to do and perform the same, at the equal expense or labor of all the male inhabitants from the age of


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sixteen years to the age of sixty years, living and residing on the lands bounding on or lying adjacent to the said Horse-Shoe Creek, from the said plantation of the said Jackson, inclusive, upwards; and also of all the inhabitants, as aforesaid, who live northerly, on Elliot's Savannah, and of those who live on the Horse-Shoe Neck, and so on to Seacom's Point, and of all such other person and persons who shall make use of any landing on the said Horse-Shoe Creek, within the space and distance it shall be so made navigable, according to the directions of this Act. And the said commissioners, or the majority of them, are hereby authorized and empowered, if they shall judge it for the ease or convenience of the said persons who are subject and liable to the clearing, cleansing and making navigable the said creek, as aforesaid, to agree with any person or persons for doing the same, and to levy the expense thereof, by an equal rate or assessment on the said inhabitants. And the said commissioners shall have all the same powers and authorities, and be entitled to the same liberties and privileges, in regard to the clearing, cleansing and making navigable the said creek, as aforesaid, and keeping the same open and navigable, either by the personal labor of the inhabitants, as aforesaid, or by an assessment on the said inhabitants, as any commissioners of any of the high roads, or any commissioners for clearing, cleansing and making navigable any creeks or water-passages, or for building any bridge or bridges, in any part of this Province, by any Act or Acts of the General Assembly of this Province, have, or ought to have, exercise or enjoy in this Province.

X. But *whereas*, the plantations or settlements of Edward North, John Mackey, John Bagbey, and James Martin, and of the said Original Jackson, within the districts aforesaid, will not receive equal advantage with the other plantations and settlements, for the use and advantage whereof the clearing, cleansing and making navigable the said Horse-Shoe Creek is intended, as aforesaid: *Be it therefore enacted* by the authority aforesaid, That the said plantations or settlements of Edward North, John Mackey, John Bagbey, James Martin, and Original Jackson, and the male inhabitants thereon, from the age of sixteen years to the age of sixty years, shall be only obliged to work or labor or to be assessed towards the making the said creek navigable, as aforesaid, at the proportion of one fourth part of the labor or charge of the other plantations, settlements or persons herein before subjected to the clearing, cleansing and making navigable the said Horse-Shoe Creek, as aforesaid, proportionably, according to the number of their male inhabitants, as aforesaid; any thing herein before to the contrary in any wise, notwithstanding. *Provided always, nevertheless*, that all those persons and plantations lying and being on the said Horse-Shoe Creek, from the mouth thereof so far up the same as a boat or pettyauger, drawing five feet when loaded, can pass, shall be, and they are hereby, freed and exempted from all labor and expense in clearing and making navigable the said Horse-Shoe Creek; any thing herein before to the contrary contained, in any wise notwithstanding.

XI. *And be it further enacted* by the authority aforesaid, That the several and respective commissioners herein before authorized and empowered to carry the several matters herein before enacted into execution, shall have as full and ample powers and authorities to carry the said several matters into execution, to all intents and purposes whatsoever, as any commissioners of any of the high roads, or for clearing, cleansing and making navigable any creeks or water-passages, or for building any bridge or bridges, in any

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part of this Province, by any Act or Acts of the General Assembly of this Province, have, or ought to have, exercise or enjoy in this Province.

WM. BULL, Jun., *Speaker.*

In the Council Chamber, the 3d day of June, 1742.

Assented to: WM. BULL.

AN ACT FOR AMENDING AN ACT ENTITLED AN ADDITIONAL AND EXPLANATORY ACT TO AN ACT ENTITLED AN ACT TO EMPOWER THE SEVERAL COMMISSIONERS OF THE HIGH ROADS, PRIVATE PATHS, BRIDGES, CREEKS, CAUSEWAYS, AND CLEARING OF WATER PASSAGES IN THIS PROVINCE OF SOUTH CAROLINA, TO ALTER AND LAY OUT THE SAME, FOR THE MORE DIRECT AND BETTER CONVENIENCE OF THE INHABITANTS THEREOF. No. 788.

WHEREAS, by an Act entitled "An additional and explanatory Act to an Act entitled An Act to empower the several commissioners of the high roads, private paths, bridges, creeks, causeways, and cleansing of water passages in this Province of South Carolina, to alter and lay out the same, for the more direct and better convenience of the inhabitants thereof," it is, among other things therein contained, enacted, that Mr. Joseph Wilkinson, Col. John Bee, and Mr. James Stobo, be commissioners for cutting, clearing and cleansing New Cut. And that Mr. Joseph Ceely, Mr. William Adams, and Archibald Calder, Esq. be commissioners for cutting, clearing and cleansing Watt's Cut. And that Mr. John Stanyarne, Mr. Isaac Waite, and Mr. Thomas Tatnall, be commissioners for cutting, clearing and cleansing Wappoo creek. And *whereas*, by reason of the death of the greater part of the said commissioners, and for want of the districts (wherein the persons liable to work in cutting, clearing and cleansing the said cuts and creeks, respectively,) being duly ascertained, the said cuts and creeks have, for several years past, been neglected, to the great detriment of those planters who are obliged to send their produce through the said cuts and creeks to market. For remedy whereof, we humbly pray his most sacred Majesty that it may be enacted,

I. *And be it enacted*, by his Excellency, James Glen, Esqr. Governor-in-chief and Captain General in and over the Province of South Carolina, by and with the advice and consent of his Majesty's honorable council, and the House of Assembly of the said Province, and by the authority of the same, That Mr. Francis Wilkinson, Mr. James Stobo, Mr. Richard Cochran Ash, Mr. Hugh Wilson, and Mr. Alexander McGillwray, shall be, and they are hereby, appointed commissioners, for cutting, clearing and cleansing New Cut. And that all the male inhabitants, from the age of sixteen to sixty years, living and residing to the southward and westward of the said New Cut, to Gibbons's alias Bennet's Point, and the inhabitants between Ashepoo and Pon Pon rivers, inclusive, making use of any landing leading through the said New Cut, except those who are by law

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excepted; and also, except those named in the districts hereinafter mentioned, shall work on the said New Cut. And that Mr. William Eddings, Mr. William Adams, Mr. David Adams, Mr. Ralph Bailey, Mr. Charles Odingsell, shall be, and they are hereby, appointed commissioners, for cutting, clearing and cleansing Watt's Cut; and that all the male inhabitants from the age of sixteen to sixty years, living and residing from the plantation of Captain William Eddings, to the plantation of William Adams and Joshua Grimball, inclusive, south westerly, and of Jehossey Island, shall work on the said Watt's Cut. And that Mr. Abraham Waite, Mr. Thomas Elliott, jr. Mr. Thomas Laws Elliott, Benjamin Elliott, and Mr. Alexaner Hext, shall be, and they are hereby, appointed commissioners, for cutting, clearing and cleansing Wappoo Creek. And that all the male inhabitants, from the age of sixteen to sixty years, making use of any landing lying on the north side of Stono River, lying above the said creek leading into the said river; as also, all such male persons residing on John's Island; as also, all such male persons making use of any landing on the northwest side of Wappoo creek, except those who are by law excepted, shall work on the said creek; any former law, usage or custom to the contrary thereof in any wise notwithstanding.

II. *And be it further enacted* by the authority aforesaid, That the commissioners hereby nominated, respectively, or a majority of them, shall have the same powers and authority, for cutting, clearing and cleansing the said cuts and creeks, respectively, and shall be subject to the like penalties and forfeiture for neglect thereof, as the commissioners nominated and appointed for those purposes, by the said in part recited Act, are invested with, or made subject and liable unto.

III. *And whereas*, the bridge over the said Wappoo creek is not of sufficient height, for boats to pass conveniently under the same. *Be it therefore further enacted* by the authority aforesaid, That the commissioners hereby appointed for the said Wappoo creek, shall be, and they are hereby obliged, enjoined and required, within six months from the time of passing this Act, at the expense of the persons hereby made liable to work on the said Wappoo creek, to raise the said bridge to the height of ten feet from the surface of the water at high tide, or to make a draw bridge, at the election of the said commissioners, or a majority of them, under pain of each and every the said commissioners forfeiting the sum of fifty pounds proclamation money, one half to his Majesty, to be applied by the General Assembly for the use of the public, and the other half to him or them who will inform and sue for the same, by action of debt, bill, plaint or information, in any court of record in this Province, wherein no privilege, protection, or wager of law, shall be allowed or admitted, nor any more than one imparlance.

IV. *And be it further enacted* by the authority aforesaid, That Mr. Andrew Townsend, Mr. Cato Ash, and Mr. Richard Jenkins, shall be, and they are hereby, appointed commissioners, for the high roads upon Edisto Island; and in case of the death, absence, or refusal to act, of any of the commissioners hereby nominated for the said cuts, creeks or roads, respectively, it shall and may be lawful to and for the other commissioners, respectively, to choose and appoint another person to be commissioner, in the room of him so dying, absent or refusing to act. And the person so chosen and appointed shall have the same powers and authority for putting this Act into execution, and shall be subject and liable to the same penalties and forfeitures, as any of the commissioners hereinbefore named.

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V. *And be it further enacted* by the authority aforesaid, That this Act shall be deemed a public Act, and, as such, shall be given in evidence before all courts in this Province, without pleading the same; and shall continue in force for and during the term of seven years, and from thence to the end of the next session of the General Assembly after, and no longer.

A. RUTLEDGE, *Speaker.*

In the Council Chamber, May 17, 1751.

Assented to: JAMES GLEN.

AN ACT FOR MAKING BLACK RIVER NAVIGABLE, FROM THE WESTERN No. 812.

BOUNDARY OF THE TOWNSHIP OF WILLIAMSBURGH, DOWN TO THE
TIDEWAY, AS FAR AS THE PLACE COMMONLY CALLED THE NARROWS.

WHEREAS, several of the inhabitants in and about the township of Williamsburgh, by their humble petition to the General Assembly, have set forth, that the petitioners had for several years suffered considerable loss in the water carriage of their goods to market down Black River, by reason of the great quantities of wood fallen in the same, which renders the navigation not only dangerous, but oftentimes impracticable; whereby the petitioners are frequently prevented from carrying their produce to market at proper seasons, to their great disadvantage, and praying that a law may be passed to remedy the same. We therefore humbly pray his most sacred [Majesty] that it may be enacted,

I. *And be it enacted*, by his Excellency, James Glen, Esq., Governor-in-chief and Captain General in and over the Province of South Carolina, by and with the advice and consent of his Majesty's council, and the House of Assembly of this Province, now met in General Assembly, and by the authority of the same, That all and every the male inhabitants, from the age of sixteen to sixty years, living and residing within six miles of Black river, on either side, from ten miles above the plantation of Henry Spry, on the head of the said river in the township of Williamsburgh, down to the Tide way, as far as the place commonly called the Narrows, inclusive, shall be obliged, and they, and every of them, are hereby enjoined and required, to work and assist in clearing the said Black river from the trees fallen and lodged therein, and making the same navigable, when and as often as they shall be thereunto summoned by the commissioners hereinafter nominated and appointed, under the like fines and forfeitures as are imposed by any Act or Acts of the General Assembly of this Province, on the inhabitants of this Province, for refusing or neglecting so to work, in the clearing, cleansing and cutting of creeks or water passages; and to be recovered and applied in the same manner as directed and appointed by the said Acts.

II. *And be it further enacted* by the authority aforesaid, That John Jones, William Nelson, John McDonald, William Hughes, and John Irwon, shall be, and they are hereby nominated and appointed, commissioners, for

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putting this Act in execution. And the said commissioners, or any three of them, shall have, use and exercise all the powers and authorities therein, which are given to any commissioners for creeks, water passages or high roads in this Province, and shall be liable to the like penalties as are inflicted on such commissioners for neglect of their duty, by any Act or Acts of the General Assembly. And it is hereby *provided*, that the several persons who are hereby made liable to assist in making the said Black river navigable, shall be summoned to work on such part of the said River as shall be nearest and most convenient to their respective habitations or plantations.

III. *And be it further enacted* by the authority aforesaid, That in case any of the said commissioners shall happen to die, depart this Province, or refuse to act, then the survivors or remaining commissioners shall and may choose and appoint another fit person or persons, to be commissioner or commissioners, in the room of him or them, so dying, refusing to act or departing this province; which person or persons so chosen and appointed, shall have the same powers and authorities, and be subject to the same penalties and forfeitures, as the commissioners herein named.

IV. *And be it further enacted* by the authority aforesaid, That in case the said commissioners, or any other person or persons, shall be sued or prosecuted for any thing to be done in pursuance of the directions of this Act, the said commissioners or other persons may plead the general issue, and give this Act and the special matter in evidence.

JAMES MICKIE, *Speaker.*

In the Council Chamber, the 21st day of April, 1753.

Assented to:

JAMES GLEN.

No. 813. AN ACT FOR APPOINTING AND IMPOWERING COMMISSIONERS TO MAKE THE WATeree RIVER NAVIGABLE, AND FOR LAYING OUT AND MAKING A ROAD FROM THE UPPER SETTLEMENTS, NEAR THE CATAWBA NATION, ON THE NORTH-EAST SIDE OF THE SAID WATeree RIVER, TO THE PLACE ON SANTEE RIVER COMMONLY CALLED BEARD'S FERRY, AND FROM THENCE TO THE ROAD LEADING FROM THE CONGrees TO CHARLESTOWN.

WHEREAS, the making the Wateree River navigable, and the laying out and making a road from the upper settlements near the Catawba Nation, to the road leading from the Congrees to Charlestown, will be of great benefit to the inhabitants of that part of the Province, and tend to the better settlement thereof; we therefore humbly pray his most sacred Majesty that it may be enacted,

I. *And be it enacted*, by his Excellency James Glen, Esq., Governor-in-Chief and Captain General in and over the Province of South-Carolina, by and with the advice and consent of his Majesty's Council and the House of Assembly of the said Province, now met in General Assembly,

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and by the authority of the same, That Samuel Wyly, Robert Millhouse, Jared Neilson, Matthew Neilson, and James M'Goit, be, and they are hereby, appointed commissioners for the purposes hereinafter mentioned. And the said commissioners, or a majority of them, shall have power and authority, and they are hereby fully authorized, empowered and directed, as soon as conveniently may be, after the passing of this Act, to take away the rafts and other obstructions in the said river, or to make the said river navigable, by cutting a water-passage in any other manner as they shall judge most expedient.

II. *And be it further enacted* by the authority aforesaid, That all the lands lying within ten miles of the said river, above the said rafts, held, owned or claimed by any person or persons who do not reside on the same, shall be subject to the payment of a tax of ten shillings for every hundred acres of such lands, toward defraying the expense of making the said river navigable. And the said commissioners shall have power and authority, and they are hereby fully authorized, impowered and directed, to assess, levy and collect a tax on all and every the owners and proprietors of the said lands, or any part thereof; and the said commissioners shall have the same powers and authorities, and proceed in the same manner for assessing, collecting and levying the said tax, as are given to the collectors of the general tax for collecting and gathering in the annual charges of this government; and all the male inhabitants, from the age of sixteen to sixty years, living and residing on either side of the said river, within ten miles of the same, and not more than seventy miles above the said rafts, or either of them, shall be, and they are hereby, obliged and required to work in removing the said rafts, or making the said river navigable, in any other manner as the said commissioners, or a majority of them, shall judge most expedient, in case the monies granted to his Majesty by the House of Assembly for this service, and the tax on the lands, as aforesaid, shall not be sufficient to defray the expense of the same.

III. *And be it further enacted* by the authority aforesaid, That the said commissioners, together with Richard Richardson and Isaac Brunson, shall be commissioners, and they, or a majority of them, shall have power, and they are hereby impowered and authorized, to lay out and make a road, in as direct a course as the land will permit, from the upper settlements near the Catawba Nation, on the north-east side of the Wateree river, to the place on Santee river, commonly called Beard's Ferry, and from thence to the most convenient part of the road leading from the Congrees to Charles-town; which road shall be made and kept in repair by all the male inhabitants from the age of sixteen to sixty years, living within ten miles of either side of the said road. And in case any of the said inhabitants shall neglect or refuse to work in removing the said rafts, or otherwise in making the said Wateree river navigable, or shall neglect or refuse to work in making the said road, or keeping the same in repair, they shall be subject to the same fines and forfeitures as any persons, by Act of the General Assembly for cutting, cleansing and clearing of creeks and water-passages, or making and keeping roads in repair, are made subject and liable unto.

IV. *And be it further enacted* by the authority aforesaid, That the said inhabitants shall be summoned to work on such part of the said road as shall be nearest and most convenient to their respective plantations or habitations, and shall not be obliged to work more than twenty miles upon the road, nor longer than six days in a year.

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V. *And be it further enacted* by the authority aforesaid, That the said commissioners, or a majority of them, shall have, use and exercise all the powers and authorities for carrying the matters herein before appointed to be done, into execution, within the limits aforesaid, which are given to any other commissioners for creeks and water-passages, or for high roads, and shall be liable to the same penalties as are inflicted on any such commissioners, by any Act or Acts of the General Assembly of this Province.

VI. *And be it further enacted* by the authority aforesaid, That in case any of the said commissioners shall happen to die, depart this Province, or refuse to act, then the majority of the remaining commissioners shall have power, and they are hereby impowered, to nominate and appoint some other person or persons in the room of him or them who shall so die, depart this Province or refuse to act; and such person and persons so nominated, shall have the same powers and authorities for making the said river navigable, and making and keeping the said road in repair, and shall be liable to the like penalties and forfeitures, as the commissioners herein before named.

VII. *And be it further enacted* by the authority aforesaid, That in case the said commissioners, or any of them, or any other person or persons acting under their authority, shall be sued or prosecuted for any matter or thing by them to be done in pursuance of the directions of this Act, it shall and may be lawful to and for the said commissioners, or other person or persons so sued or prosecuted, to plead the general issue, and give this Act and the special matter in evidence.

VIII. *And be it further enacted* by the authority aforesaid, That the commissioners hereby appointed for making the Wateree river navigable, shall be, and they are, obliged, enjoined and required to render a just and true account to the General Assembly, as well of all the monies by them received and expended in and about the said work, as of the personal labor of the inhabitants on the same, when thereunto required.

JAMES MICKIE, *Speaker.*

In the Council Chamber, the 21st day of April, 1753.

Assented to: JAMES GLEN.

No. 820. AN ACT FOR REPEALING SUCH PARTS OF AN ACT ENTITLED "AN ACT TO CUT AND SINK DRAINS AND PASSAGES INTO THE NORTH AND WEST BRANCHES OF STONO RIVER," AS RELATE TO THE WEST BRANCH OF STONO RIVER; AND TO IMPOWER THE COMMISSIONERS THEREIN NAMED TO CUT AND SINK DRAINS AND WATER-PASSAGES INTO THE SAID WEST BRANCH OF STONO RIVER, AND TO CUT AND SINK A DRAIN OR WATER-PASSAGE IN THE SWAMP CALLED BASFORD'S SWAMP, IN THE PARISH OF SAINT BARTHOLOMEW.

WHEREAS, the provisions made by the Act entitled "An Act to cut and sink drains and water-passages into the north and west branches of

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Stono river," passed the tenth day of May, one thousand seven hundred and forty, have not proved effectual for the purposes intended, inasmuch as many valuable tracts of land cannot be seasonably cultivated, for want of drains into the said west branch, to the great detriment of the proprietors of such lands; we therefore humbly pray his most sacred majesty that it may be enacted,

I. *And be it enacted*, by his Excellency James Glen, Esq., Governor-in-Chief and Captain General in and over the Province of South Carolina, by and with the advice and consent of his Majesty's Council and the Assembly of the said Province, and by the authority of the same, That from and immediately after the passing this Act, all such matters, clauses and things in the said recited Act contained, as relate to the laying out, cutting, sinking, maintaining and keeping in repair the drains or water-passages to carry off the waters into the west branch of Stono River, shall be, and are hereby, repealed, to all intents and purposes whatsoever.

II. *And be it further enacted* by the authority aforesaid, That John Miles, George Sommers, and Thomas Smith, Esq's., Humphrey Sommers, James Hearley, Jehu Elliot, and Thomas Rigdon Smith, or any four of them, be, and they are hereby, constituted and appointed commissioners and they, or a majority of them, are hereby authorized and empowered to lay out, cut, sink, maintain and keep in repair, and to agree for the laying out, cutting, sinking, maintaining and keeping in repair, a free drain or passage to carry the waters off the swamp commonly called Cacaw Swamp, from the north-east corner of Capers's land, now in the possession of Archibald Stanyarne, up along the channel of the said swamp, to the uppermost part of Spoon Savannah, and from Hide-Park Causey, downwards into the drain or passage already cut, which empties the waters into the south-west branch of the said Stono River. And the said commissioners, or a majority of them, shall have power, and they are hereby authorized and empowered, to lay out and make the said drain or passage into the said swamp, at such time and in such manner as they shall think most convenient for the purpose intended by this Act.

III. *And be it further enacted* by the authority aforesaid, That the said drain or passage in the said swamp shall be laid out, made and kept in repair at the expense of the owners and proprietors of the lands which shall be benefitted by the said drain or passage, and by the labor of the slaves employed on any such lands.

IV. *And be it further enacted* by the authority aforesaid, That the said commissioners, or a majority of them, shall have power and authority, and they are hereby fully empowered and authorized, to employ overseers to inspect the making the said drain or passage, and keeping the same in repair, and to do all such matters as they, the said commissioners, shall be of opinion will best tend to the carrying this Act into execution.

V. And that the said drain or passage may be speedily finished, *Be it further enacted* by the authority aforesaid, That all the male slaves, (from the age of sixteen to sixty years,) residing or employed on any lands within the limits aforesaid, shall be, and they are hereby, obliged and required to work on the said drain or passage, at such time or times as the said commissioners, or a majority of them, shall appoint for that purpose. And in case the owner or owners of any such slaves, shall neglect or refuse to send the same to work on the said drain or passage, at any time when required so to do by the said commissioners, or a majority of them, every such owner and owners shall forfeit and pay any sum not exceeding twelve

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shillings and six pence, current money, per day, for every such slave that he, she or they shall so neglect or refuse to send to work on the said drain or passage, as aforesaid; to be recovered by warrant under the hands and seals of the said commissioners, or a majority of them, and to be applied toward defraying the expense of making the said drain or passage, or keeping the same in repair.

VI. *And be it also enacted* by the authority aforesaid, That the commissioners appointed by this Act shall have the same powers and authorities, and shall proceed in the same manner to assess, levy and collect the expense of laying out, cutting, sinking, maintaining and keeping in repair the drain or passage hereby enjoined to be made, on the owners of the lands and slaves, as aforesaid, as were given to the commissioners appointed by the above mentioned Act for assessing, levying and collecting the expense of the drains or passages into the north branch mentioned in the said Act.

VII. *And be it further enacted* by the authority aforesaid, That a drain or passage to carry the waters off the lands in a swamp in the parish of St. Bartholomew, commonly called the Basford's Swamp, from the lands of William Smith, down to a creek commonly called Butler's Creek, shall be laid out, cut, sunk, maintained and kept in repair by the several owners and proprietors of the lands which shall be benefitted by the said drain or passage.

VIII. *And be it further enacted* by the authority aforesaid, That Archibald Hamilton, John Roberts, and William Smith, shall be, and they are hereby, appointed commissioners for the said passage or drain; and they, the said commissioners, or any two of them, shall have power, and they are hereby empowered, to lay out, cut, sink, maintain and keep the said passage or drain in repair, and to assess, levy and collect the expense of the same on the several proprietors and owners of the lands which shall be benefitted thereby, in the like manner as the commissioners appointed for sinking drains in the branches of Stono river are empowered to do.

IX. *And be it also enacted*, That in case any of the respective commissioners herein named shall happen to die, depart this Province, or refuse to act, another commissioner or commissioners shall be nominated and appointed in the room of such commissioner or commissioners, in the same manner as is directed in the like case by the Act above mentioned.

JAMES MICKIE, *Speaker.*

In the Council Chamber, the 8th day of May, 1754.

Assented to: JAMES GLEN.

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No. 823.

AN ACT FOR ASCERTAINING THE DISTRICT FOR CUTTING, CLEANSING AND KEEPING IN REPAIR, THE CREEK OR CUT COMMONLY CALLED THE HAWLOVER.

WHEREAS, by an Act made the seventeenth day of May, in the year of our Lord one thousand seven hundred and fifty-one, entitled "An Act for amending an Act entitled an additional and explanatory Act to an Act entitled An Act to empower the several commissioners of the high roads, private paths, bridges, creeks, causeys, and cleansing of water passages in this province of South Carolina, to alter and lay out the same, for the more direct and better convenience of the inhabitants thereof," it is enacted, That all the male inhabitants, from the age of sixteen to sixty years, living and residing from the plantation of Captain William Eddings, to the plantations of William Adams and Joshua Grimbail, inclusive, south-westerly, and of Jehossey Island, should work on Watt's cut; and *whereas*, by ascertaining the district to work upon the said Watt's cut in the above manner, the greater part of the slaves that were heretofore liable to work on the cut or creek called the Hawlover, are exempted from that service, by which means, the cutting, cleansing and keeping in repair the said cut or creek called the Hawlover, is become a great burthen on the inhabitants who are at present obliged to do the same. And *whereas*, the said inhabitants by their petition to the General Assembly, have prayed to be relieved therein, by ascertaining the district to work on the said Hawlover cut, as was appointed by an Act of the General Assembly, passed the fifteenth day of September, one thousand seven hundred and twenty-one. We therefore humbly pray his most sacred Majesty that it may be enacted,

I. *And be it enacted*, by his Excellency, James Glen, Esq., Governor-in-chief and Captain General in and over the Province of South Carolina, by and with the advice and consent of his Majesty's council, and the Assembly of the said Province, and by the authority of the same, That William Bird, Joshua Grimbail, Robert Sams, Richard Jenkins, and William Jenkins, or any three of them, be, and they are hereby, appointed commissioners for cutting, cleansing and keeping in repair, the cut or creek commonly called the Hawlover, by a plantation heretofore belonging to Samuel Jones, deceased, on John's Island; and that all the inhabitants making use of the said cut or creek to come to Charlestown, residing on and near Bohicket creek; as also, all the inhabitants on the South-east side of Edisto Island, that frequently use to come through the said creek to Charlestown, living and residing from the plantation of Mrs. Mary Russell, to the plantation of Mr. William Adams, and from Mr. William Adams's to the broad road, to a place called the Public Dams; and from the public Dams, (the road to be the dividing line,) to the Anabaptist meeting house; from the said meeting house to the plantation of Mr. William Jenkins, where his son John Jenkins now lives; and from the plantation of Mr. William Jenkins to the plantation of Mr. David Hext, all inclusive, shall personally work, in cutting, cleansing and keeping the said creek in repair; any thing in the first above recited Act contained to the contrary thereof in any wise notwithstanding.

II. *And be it further enacted* by the authority aforesaid, That all the male inhabitants residing on the remaining part of Edisto Island, on Jehossey Island, Fenwick's Island, Chapman's Island, Adams's Island, and on the plantation of Col. Gibbes, called Bennett's Point, from the age of sixteen to sixty years, be, and they are hereby, enjoined and required, to work

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in cutting, cleansing and keeping in repair, the cut commonly called Watt's Cut.

III. *And be it further enacted* by the authority aforesaid, That in case of the death, departure from this Province, or refusal to act, of any of the commissioners by this Act appointed, the remaining commissioners, or a majority of them, shall, and have power hereby, to appoint a commissioner or commissioners, in the room of him or them so dying, departing this Province, or refusing to Act, which commissioners so appointed shall have and exercise all the powers given to the commissioners by this Act appointed.

IV. *And be it further enacted* by the authority aforesaid, That all such persons as are by this law obliged to work in cutting, cleansing and keeping in repair Watt's cut, be, and they are hereby, excused and exempted from working on any other cut; any law, usage or custom to the contrary in any wise notwithstanding.

V. *And be it further enacted* by the authority aforesaid, That from and after the passing of this Act, every matter and thing contained in an Act entitled "An Act for amending an additional and explanatory Act to an Act entitled An Act to empower the several commissioners of the high roads, private paths, bridges, creeks, causeys, and cleansing of water passages in this Province of South Carolina, to alter and lay out the same, for the more direct and better convenience of the inhabitants thereof," passed the seventeenth day of May, one thousand seven hundred and fifty-one, as relate to the ascertaining the district of such persons as are obliged to work in cutting and cleansing the Hawlover, be, to all intents and purposes, repealed; any law, usage or custom to the contrary thereof in any wise notwithstanding.

JAMES MICKIE, *Speaker.*


In the Council Chamber, the 11th day of May, 1754.

Assented to:

JAMES GLEN.

No. 844. AN ACT FOR CLEANSING, CLEARING AND MAKING NAVIGABLE THE HEAD OF ASHEPOO RIVER, FROM ASHEPOO BRIDGE TO THE FISH POND BRIDGE; AND FOR CLEANSING, CLEARING AND MAKING NAVIGABLE CHECHESSEY CREEK, FROM THE MOUTH OF THE SAME TO THE PUBLIC LANDING, KNOWN BY THE NAME OF CHECHESSEY LANDING; AND FOR APPOINTING COMMISSIONERS FOR CLEARING THE HORSE SHOE CREEK, IN THE ROOM OF THOSE WHO ARE DEAD.

WHEREAS, the upper part of Ashepoo river, by reason of the shoals at a place called the Three Creeks, and by reason of several trees that have fallen and lodged therein, is found dangerous and almost impracticable for pettyaugers or other boats of burthen; and *whereas*, the clearing away the obstructions and rendering the said river navigable to the Fish Pond Bridge; and also the making navigable Chechessey creek, would be of great advantage to them who are settled in those parts, by the more readily draining their swamps, as well as affording a more convenient landing, for transporting rice and other commodities to market. We therefore humbly pray his most sacred Majesty that it may be enacted,

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I. *And be it enacted*, by his Excellency, James Glen, Esq., Governor-in-chief and Captain General in and over the Province of South Carolina, by and with the advice and consent of his Majesty's council, and the Commons House of Assembly of the said Province, and by the authority of the same, That Colonel Henry Herney, Mr. Burrel Hyrne, William Webb, Joseph Hunt, and John Hunt, shall be, and they are hereby, appointed commissioners for cleansing, clearing and making navigable Ashepoo river, from the Ashepoo Bridge to the Fish Pond Bridge, and for continuing to keep the same clear and navigable, in such manner as they shall judge most proper for the better navigation of boats and pettyaugers in the said river, or for the more readily draining the low lands or swamps adjacent thereto.

II. *And be it also enacted* by the authority aforesaid, That Thomas Ebersson, Thomas Clifford, and Henry Meshew, be, and they are hereby, appointed commissioners for cleansing, clearing and making navigable the Chechessey creek, from the mouth thereof, up to the public landing commonly known by the name of Chechessey landing.

III. *And be it further enacted* by the authority aforesaid, That the commissioners, or a Majority of them, are hereby authorized and empowered to remove all trees, logs, and other obstructions whatsoever, which in any wise hinder or interrupt the navigation of the said river, and to dig the channel of the said river as many feet wider as will be sufficient for the passage of pettyaugers, if they see cause and think it proper; and they, or a majority of them, are hereby authorized and empowered, by themselves or their workmen, to have free ingress, egress and regress, to and from the said river, or any part thereof, within the limits aforesaid, through the lands or plantations of any person whosoever, for carrying on the cleansing, clearing and making navigable the said river, or for continuing the said navigation.

IV. *And be it also enacted* by the authority aforesaid, That the cleansing, clearing and making navigable, and the continuing to keep clear and navigable the said river, from Ashepoo Bridge to Fish Pond Bridge; and that the cleansing and making navigable Chechessey creek, and the continuing to cleanse and keep the said creek navigable, shall be done and performed at the labor and expense of all the male inhabitants, from the age of sixteen to sixty years, living and residing on the plantations adjacent thereto, respectively, in proportion to the benefit that such plantations shall respectively receive, in the opinion of the said commissioners, that is to say:—all the male inhabitants as aforesaid, now living, or who shall hereafter live or reside on the plantations adjacent to the said river, within the limits aforesaid, now belonging to Colonel John Gibbes, Colonel Pinckney, Burrel Hyrne, Stephen Bull, Edward Fenwicke, James Stobo, William Webb, Colonel Henry Hyrne, Joseph Miles, Thomas Miles, William Miles, Jeremiah Miles, John Hunt, Joseph Hunt, and also, all such plantations as may hereafter be settled adjacent to that part of the said river, to work on the district between Ashepoo Bridge and Fish Pond Bridge. And all the male inhabitants aforesaid, living and residing, or who shall reside on the plantations now belonging to Rawlins Lowndes, Esq. Mrs. Gibbes, William Harding, Thomas Ebertson, Henry Meshew, George Evans, Maurice Williams, Joseph Andrews, James Andrews, Thomas Clifford, Thomas Snipes, Joseph Hull, Benjamin Splatt, Edward Fenwicke's plantation, adjacent to Chechessey creek, and all plantations that may be hereafter settled, and make use of Chechessey Landing, to work on the district between the mouth of Chechessey creek and Chechessey landing

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V. *And be it also enacted* by the authority aforesaid, That the said commissioners, respectively, or a majority of them, shall have as full and ample power and authority to carry into execution the several matters hereinbefore mentioned, to all intents and purposes whatsoever, as any of the commissioners for any of the high roads, or commissioners for clearing, cleansing or making navigable any rivers, creeks or water passages in any part of this Province, by any Act or Acts of the General Assembly, have, or ought to have, use, exercise or enjoy.

VI. *And be it also enacted* by the authority aforesaid, That if any person whosoever, shall, by himself, or his servants or slaves, either by felling of trees, or by any other means whatever, either wilfully or accidentally, obstruct or interrupt the passage or course of the said river or creek, and shall not, within twenty days after such obstruction or interruption, clear and entirely take away, or cause the same to be taken away, every such offender shall forfeit the sum of ten pounds current money; to be recovered by warrant of distress and sale of the offender's goods, to be applied by the commissioners, respectively, or a majority of them, toward the charge of clearing or continuing to keep clear, the navigation of the said river or creek, respectively, wherein the offence shall be committed.

VII. *And whereas*, several of the persons who were appointed commissioners for clearing the Horse Shoe Creek are dead. *Be it therefore further enacted* by the authority aforesaid, That Colonel Richard Bedon, and Mr. Philip Hext, shall be, and they are hereby, nominated and appointed commissioners for clearing the Horse Shoe creek, in the room of the persons appointed for that purpose, who are since dead.

VIII. *And be it also enacted* by the authority aforesaid, That if any of the commissioners herein named shall die, depart this Province, or decline acting, it shall and may be lawful for the remaining commissioners, or a majority of them, to chose and appoint others in their room; and the person so chosen and appointed shall be vested with, use and exercise the same powers and authorities which are given to the commissioners by this Act appointed, to all intents and purposes whatever.

IX. *And be it also enacted* by the authority aforesaid, That if any person or persons whosoever shall be sued, prosecuted or molested, for any matter or thing done by virtue or in pursuance of the directions of this Act, such person or persons may plead the general issue, and give this Act and the special matter in evidence. And in case the plaintiff or prosecutor shall become nonsuit, suffer a discontinuance, or a verdict shall pass against him, or judgment shall be given against him on demur, the defendant shall recover his full costs of suit, for which he shall have the same remedy as where costs are given by law; any law, usage or custom to the contrary notwithstanding.

X. *And be it further enacted* by the authority aforesaid, That this Act shall be deemed and allowed as a public Act, in all courts of justice in this Province, of which all judges and justices are to take notice without pleading.

B. SMITH, *Speaker.**In the Council Chamber, the 19th day of March, 1756.**Assented to:*

JAMES GLEN.

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No. 969.

AN ACT TO APPOINT COMMISSIONERS TO LAY OUT, CUT, SINK, MAINTAIN, AND KEEP IN REPAIR, SEVERAL DRAINS OR WATER PASSAGES, TO CARRY OFF THE WATERS FALLING INTO, AND FOR DRAINING THE SWAMP CALLED CAWCAW SWAMP, AND THE LANDS AT THE HEAD THEREOF; ALSO TO APPOINT COMMISSIONERS TO LAY OUT, MAKE, AND KEEP IN REPAIR THE ROADS THEREIN MENTIONED, IN THE PARISHES OF ST. LUKE AND ST PETER; AND FOR MAKING AND KEEPING IN REPAIR, A DRAIN ON THE CYPRESS SWAMP, FROM BACON'S BRIDGE TO THE PLANTATION OF ROBERT ECKLES.

WHEREAS, the provisions heretofore made by an Act entitled "An Act to cut and sink drains and water passages on the north and west branches of Stono River," passed the tenth day of May, in the year of our Lord one thousand seven hundred and forty; and by another Act entitled "An Act for repealing such parts of an Act entitled An Act to cut and sink drains and passages in the north and west branches of Stono River, as relate to the west branch of Stono River, and to empower the commissioners therein named, to cut and sink drains and water passages in the said west branch of Stono River; and to cut and sink a drain or water passage in the swamp called Basford's Swamp, in the parish of St. Bartholomew"—have not proved effectual for the purposes intended thereby, so far as relates to the draining of the swamp commonly called Cawcaw Swamp, by reason of the death of several of the commissioners appointed for that purpose, and others of them having sold and disposed of their lands that would have been benefitted by the said drain; and also, for that the said drain was not, by the said laws, directed to be extended as far as it should be. We therefore humbly pray his most sacred Majesty that it may be enacted.

I. *And be it enacted*, by his Excellency, the Right Honorable Lord Charles Greville Montagu, Captain General, Governor and Commander-in-chief, in and over the Province of South Carolina, by and with the advice and consent of his Majesty's council, and the Commons House of Assembly of the said Province, and by the authority of the same, That Robert Williams and Thomas Ferguson, Esqrs., Humphrey Somers, Charles Elliott, Isaac McPherson, James Stanyarne, and Robert Rowand, or any four of them, be, and are hereby, constituted and appointed commissioners and they, or a majority of them, are hereby authorized and empowered, to lay out, cut, sink, maintain, and keep in repair, and to agree for the laying out, cutting, sinking, maintaining, and keeping in repair, a free drain or passage, to carry the waters off from the upper end of Spoon Savannah, downwards, to the north-east part of lands formerly belonging to one Capers, and now to Mr. Archibald Stanyarne; and also, one other drain or passage, from that part of the plantation belonging to the Honorable John Drayton, Esqr. on the road leading from the bridge commonly called Rantowle's Bridge, to Ferguson's Ferry, through the plantation of Mr. Charles Elliott, down, until it fall in with or intersect the said first mentioned drain, to be made from the upper end of Spoon Savannah, as aforesaid; and the said commissioners, or a majority of them, shall have power, and are hereby authorized and empowered, to lay out and make the said drains or passages as aforesaid, at such time and in such manner as they shall think most convenient for the purposes intended by this Act.

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II. *And be it further enacted* by the authority aforesaid, That the said drains or passages shall be laid out, made, and kept in repair, at the expense of the owners and proprietors of the lands which shall be benefitted by the said drains or passages, and by the labor of the slaves employed on such lands.

III. *And be it further enacted* by the authority aforesaid, That the said commissioners, or a majority of them, shall have power and authority, and they are hereby fully empowered and authorized, to employ overseers to inspect the making the said drain or passage, and keeping the same in repair, and to do all such matters as they, the said commissioners, shall be of opinion will best tend to the carrying this Act into execution.

IV. And that the said drains or passages may be speedily finished, *Be it further enacted* by the authority aforesaid, That all the male slaves, from the age of sixteen to sixty years, residing or employed on any lands within the limits aforesaid, shall be, and they are hereby, obliged and required to work on the said drains or passages, at such time or times as the said commissioners, or a majority of them, shall appoint for that purpose; and in case the owner or owners of any such slaves shall neglect or refuse to send the same to work on the said drains or passages, at any time when required so to do by the said commissioners, or a majority of them, every such owner and owners shall forfeit and pay a sum not exceeding twelve shillings and six pence, current money, per day, for every such slave that he, she or they shall so neglect or refuse to send to work on the said drains or passages as aforesaid; to be recovered by warrant, under the hands and seals of the commissioners, or a majority of them, and to be applied toward defraying the expense of making the said drains or passages, or keeping the same in repair.

V. *And be it also enacted* by the authority aforesaid, That the commissioners appointed by this Act for the purposes aforesaid, shall have the same powers and authorities, and shall proceed in the same manner, to assess, levy and collect the expense of laying out, cutting, sinking, maintaining and keeping in repair, the drains or passages hereby enjoined to be made, on the owners of the lands and slaves as aforesaid, as were given to the commissioners appointed by the first before recited act, for assessing, levying, and collecting the expense of the drains or passages into the north branch mentioned in the said act.

VI. *And whereas*, several persons to the westward of the several plantations of William Middleton, and Henry Middleton, Esqrs., at the Euhawes, in the parish of St. Luke, have for some time past, (with the permission of the said William and Henry Middleton,) made use of a private road, made by the said William and Henry, passing through the said plantations, from the road leading from Puryburgh to Charlestown, to the place called Jenys's Landing; and *whereas*, it would be very injurious to the said William and Henry Middleton, to have the said road continued through their said plantations, and another road may be made with less prejudice to them, and of equal utility to the persons residing to the westward of the said plantations, for the purpose of carrying their produce to a landing. *Be it therefore further enacted* by the authority aforesaid, That as soon as may be after the passing of this Act, a landing road for the persons aforesaid, residing to the westward of the said several plantations, shall, under and by the direction of the commissioners hereinafter named, be laid out and made in a direct line from the said Puryburgh road, across a part of Jasper's Barony, lately agreed to be purchased by the said Henry Middleton,

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to the line of Colonel Daniel Heyward's tract, formerly belonging to Col. Hall, so as to leave one-third part of the said land lately agreed for by the said Henry Middleton, to the northward of the said road; and from thence, in a direct line between the lands of the said Henry Middleton and Daniel Heyward, to the north-west corner of a tract of land formerly belonging to Paul Jenys, Esqr., deceased; and from the said corner, in a direct line across the head of Captain William Sealy's tract, to the present road leading to Jenys's Landing; which road shall be laid out, and well and sufficiently made and finished, by the labor of the male slaves, living and residing on the said several plantations of the said William and Henry Middleton; and also, by and with the labor of the male slaves of the several persons who lately made use of the said road passing through the said plantations, and of all others who shall make use of or be benefitted by the said new Landing Road, to be laid out as aforesaid; and it shall and may be lawful for all and every person and persons heretofore or now making use of the said Landing Road through the said plantations of the said William and Henry Middleton, to continue to use the same as they have heretofore done, for the term of two years from and after the passing of this Act, unless the said road shall be sooner completed and finished as aforesaid.

VII. *And be it further enacted* by the authority aforesaid, That so soon as the new Landing Road shall be laid out, made, and completely finished, as aforesaid, the same shall be used, deemed and taken as the Landing Road, for the several persons residing to the westward of the said plantations, who formerly made use of the road passing through the said plantations of the said William and Henry Middleton; and that the male slaves belonging to them, and to all other persons who shall have occasion to make use of the said new Landing Road hereby established; and also, the male slaves which shall be on the plantation called Dickle Burrough, belonging to the said Henry Middleton, shall be thenceforth obliged to work on the said new Landing Road, and keep the same in repair, in the same manner as other Landing Roads are usually worked on and kept in repair; and that part of the present Landing Road, from the east end of the said new road to the landing, shall be worked on and kept in repair in the usual manner, by every person who shall make use of the same for the purpose of carrying their produce to the said landing.

VIII. *And be it further enacted* by the authority aforesaid, That as soon as may be after the passing of this Act, the commissioners hereinafter named, shall lay out and make a road, from such part of the Purysburgh road as they shall judge most convenient, in a direct line to the north-east corner of Gideon Dupont, Junior's, tract of one hundred and fifty-two acres; and from thence on the line between the said Gideon Dupont and Samuel Hamlin, to the north-west corner of Cornelius Dupont's tract of three hundred and seventy acres; and from the said corner, as near as may be, in a direct line to the barn of Paul Porcher's plantation, near Savannah river. And that all persons that shall or may be benefitted by the said road, shall be obliged to assist in laying out, making and keeping the same in repair, in the same way and manner as the other roads in this Province are made and kept in repair.

IX. *And be it further enacted* by the authority aforesaid, That Gideon Dupont, Cornelius Dupont, Paul Porcher, Samuel Porcher, and John Heyward, are hereby nominated and appointed commissioners, and they, or a majority of them, are hereby authorized and required to lay out, finish,

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and compleat the said new roads, within two years from the passing of this Act ; and shall have full power and authority, to all intents and purposes, and shall and may, at all times, use the same ways and means for causing the said new roads, respectively, to be laid out, made, and kept in repair, by the persons hereby made liable to the same, as any other commissioners of high roads have, by any law or laws of this Province. And in case any of the said commissioners shall die, depart the Province, or refuse to act, that then it shall and may be lawful for the other commissioners, or a majority of them, to choose another person to be a commissioner, in the room of him so dying, departing the Province or refusing to act ; and the person so chosen shall be invested with and have the same powers and authorities as the other commissioners hereby nominated and appointed.

X. *Whereas*, the Act of the General Assembly, passed the ninth of April, one thousand seven hundred and thirty-four, for clearing, cleansing and making navigable the head of Ashley river, hath not proved effectual for the purposes intended, inasmuch as many valuable tracts of land, on the Cypress Swamp, at the head of the said river, are rendered, in a great measure, useless, by reason of many obstructions which cause the standing of large quantities of water therein, which lands cannot be seasonably cultivated, for want of sufficient drains or water-passages, to the detriment of the proprietors of the same ; *Be it therefore enacted* by the authority aforesaid, That Daniel Blake, Daniel Doyley, David Oliphant, William Sanders, and Benjamin Waring, Esq's., and Henry Smith, John Ioor, James Sanders, and John Ioor, jun., be, and they are hereby, constituted and appointed commissioners, and they, or the majority of them, and their successors, are hereby fully authorized and empowered, immediately after the passing of this Act, or as soon as may be, to lay out, cut, sink, clear, clean, make and keep in repair, or to contract and agree with such person or persons as they, in their discretion, shall think fit, to lay out, cut, sink, clear, clean, make and keep in repair, such drains or water-passages in and through the said lands, leading from Bacon's Bridge, up the channels or water-passages of the said swamp, and as far up the said channels or water-passages as the said commissioners, their successors, or the majority of them, may judge necessary and convenient, for draining the said swamp, and for removing of all trees, logs, timber, or any other obstructions whatsoever, which may any way hinder or interrupt the said channels or water-passages, whether the same be through the soil of our sovereign lord the King, or any other person, or any body politic and corporate, their heirs and successors. And the said commissioners, or their survivors and successors, or such person or persons as they may contract and agree with, are hereby fully authorized and empowered, by themselves, their workmen, servants or slaves, to have free ingress, egress and regress, to and from the said drains or water-passages of the said swamp, or any part thereof, through the lands and plantations of any persons whatsoever, for the better, more easy and convenient cutting, sinking, clearing, cleaning, making and keeping in repair, the said drains or water-passages.

XI. *And be it enacted* by the authority aforesaid, That the cutting, sinking, clearing, cleaning, making and keeping in repair the said drains or water-passages, for draining the said swamp, and for removing the obstructions aforesaid, shall be done, performed and completed at the charge and expense of the inhabitants and owners of lands who may be benefitted by such drains or water-passages, of which the said commissioners, or their successors, or the majority of them, are hereby appointed judges, from

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Bacon's Bridge, up the said swamp, to the high road across the said swamp, leading into the Orangeburg Road, and commonly called the Cypress Road, and from thence to the plantation of Robert Eckles, including the said plantation : which said charge shall be raised by a tax or assessment on the inhabitants and owners of such lands. And the said commissioners, their successors, or the majority of them, are hereby fully authorized and empowered to raise such tax and assessment, equally and indifferently, on the inhabitants or the owners of lands aforesaid, according to the computed number of acres subject to be overflowed. And in case the inhabitants or owners of land so assessed, as aforesaid, shall refuse or neglect to pay to the said commissioners, their successors, or either of them, such sum or sums of money as he, she or they shall be charged in such assessment, after a copy of such assessment shall be affixed at the church door of the parish of St. George Dorchester, at least fourteen days, that then it shall be lawful for the said commissioners, their successors, or the majority of them, to issue warrants under their hands and seals, directed to any lawful constable of the said parish, to levy the sum or sums of money so assessed on the defaulter or defaulters's goods, and to expose the same to public sale, returning the overplus, if any there be, to the respective owner or owners, deducting the reasonable charges.

XII. *And be it enacted* by the authority aforesaid, That if any person or persons shall, by himself, his servants or slaves, either by felling of trees, throwing up dams, or by any other means whatsoever, obstruct or interrupt any of the said drains or water-passages, and shall not, within twenty-four hours after notice given to them, or either of them, by order of one or more of the said commissioners, or their survivors, remove, clear and take away the same, every such offender or offenders shall forfeit, for every such offence, the sum of one hundred pounds, current money of the said Province, to be levied by warrant under the hands and seals of the majority of the said commissioners, or their successors. And the said commissioners, or their successors, and the majority of them, shall cause the same to be removed, cleaned and taken away at the sole expense of the offender or offenders ; which expense shall, in case of non-payment, be levied as aforesaid ; and the penalties to be recovered, as aforesaid, shall be laid out in cleaning and keeping in repair the said drains or water-passages.

XIII. *And be it enacted* by the authority aforesaid, That it shall and may be lawful for the said commissioners, their successors, or the majority of them, at least twice in every year, after the said drains or water-passages shall be completed and finished, and at such convenient times and seasons as they shall think fit, by warrant under their hands and seals, directed to any lawful constable of the said parish, to summon all the male inhabitants and slaves above the age of sixteen and under the age of sixty years, who may be benefitted by the said drains or water-passages, to work and be employed in and about the cleaning and keeping in repair the said drains or water-passages, from Bacon's Bridge, up the channels or water-passages of the said swamp, to the high road across the said swamp leading into the Orangeburg Road, and commonly called the Cypress Road, and from thence to the plantation of Robert Eckles, including the said plantation. And in case any of the said male persons, with their servants or slaves, shall fail to appear on any of the days or times so to be appointed, every such defaulter shall forfeit, for each day's absence of himself, his servants or slaves, a sum not exceeding twelve shillings and six pence, current money, to be

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recovered and applied as aforesaid. *Provided, always,* that all such persons shall be summoned, as aforesaid, at least ten days before the time fixed for working, clearing, cleaning and repairing the said drains or water-passages.

XIV. *And be it enacted* by the authority aforesaid, That the owners of any lands that are on the said swamp, within the bounds aforesaid, who have no settlement on such lands, either with servants or slaves, and whose lands may be benefitted by such drains or water passages, shall pay into the hands of the said commissioners, or their successors, or either of them, all such sum or sums of money which they may be taxed or assessed, for cutting, sinking, clearing and making the said drains or water-passages. And in case the owners of such lands, or any of them, shall neglect or refuse to pay the said commissioners, or their survivors, yearly and every year, the sum of twenty shillings, current money, for every computed hundred acres of swamp land, and so in proportion for a greater or lesser quantity, after the said drains or passages shall be fully completed and finished, towards cleaning and keeping in repair the said drains or water passages, it shall and may be lawful for the said commissioners, their successors, or the majority of them, to levy all such sum or sums so due, by warrant under their hands and seals, as aforesaid. But in case it shall happen that the defaulter or defaulters shall have no goods on which distress can be made, then it shall and may be lawful for the said commissioners, their successors, or the majority of them, to cause to be felled and cut down, upon the defaulter's lands, or any part thereof, and to make sale of, so much timber or timber-trees as will be sufficient to raise the sum or sums hereby taxed or assessed and made due and payable for such defaulter's lands; the said timber being first viewed, appraised and valued by, and certified under the hands and seals of, any three freeholders of the said parish, to be appointed by the said commissioners, their successors, or the majority of them, for that purpose.

XV. *And be it enacted* by the authority aforesaid, That the said commissioners, their successors, or the majority of them, shall meet at some convenient place, at least twice in every year, and oftener, if the majority shall think fit, to settle and determine all disputes relating to the said drains or water-passages, and to do and perform all such matters and things as they shall think necessary and convenient for the maintaining and keeping in repair the said drains or water passages, and for the improvement and preservation thereof, public notice thereof being first given in writing, to be affixed on the door of the said parish church, fourteen days, of the time and place of such meeting.

XVI. *And be it enacted* by the authority aforesaid, That if any person or persons whatsoever, by themselves, their servants or slaves, shall, by any ways or means, hinder or oppose the said commissioners, their successors, or such person or persons as they shall contract, agree with or appoint, their servants or workmen, from cutting, sinking, clearing and making the said drains or water-passages, or from cutting down, felling or making use of any timber-wood, earth or stones, in or near the said drains or water-passages, or from mending or repairing the same, as aforesaid, shall, for every such offence, forfeit the sum of fifty pounds, current money of the said Province, to be recovered by the said commissioners, their successors, or the majority of them, by action of debt, bill, plaint or information, in any court of record in this Province; and the monies so recovered, to be disposed of for cutting, sinking, clearing, making and keeping in repair the said drains or water-passages.

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XVII. *And be it enacted* by the authority aforesaid, That if any of the said commissioners shall die or depart this Province, or shall refuse or neglect to act, it shall and may be lawful for the remaining commissioners, or the majority of them, to elect one or more commissioners in their room, or in default of such election, for the Governor or Commander-in Chief for the time being, to appoint; and the person or persons so elected or appointed, shall be invested with, and he or they shall and may lawfully use, exercise and enjoy, the same powers and authorities, in as full and ample manner, to all intents and purposes whatsoever, as the commissioners hereby appointed can, or lawfully may or ought to do.

XVIII. *And be it further enacted* by the authority aforesaid, that if any person or persons whatsoever, shall be sued, prosecuted or molested, for any matter or thing done by virtue of this Act, such person or persons may plead the general issue, and give this Act and the special matter in evidence; and in case the plaintiff or plaintiffs shall suffer a discontinuance, or verdict or judgment shall pass against him or them, the defendant or defendants shall be allowed his and their treble costs of suit.

P. MANIGAULT, *Speaker.*

In the Council Chamber, the 12th day of April, 1768.

Assented to: C. MONTAGU.

AN ACT FOR CLEARING AND MAKING NAVIGABLE EDISTO RIVER, AND No. 1041.
THE FORKS OR BRANCHES THEREOF.

WHEREAS, the clearing and making navigable Edisto River, and the forks or branches thereof, will be of public utility.

I. *Be it therefore enacted*, by his Excellency, John Rutledge, Esqr., President and Commander-in-chief, the Honorable the Legislative Council, and the General Assembly of the State of South Carolina, and by the authority of the same, That Thomas Ferguson, Daniel Cannon, John Ward, Roger Saunders, Henry Felder, and William Hill, Esqrs., and Mr. David Rumph, be, and they are hereby, appointed commissioners, from Pon Pon Bridge, up to the forks of the said River; and John Salley, Henry Felder, Henry Young, James Pritchard, Robert Cannon, Philip Jennings, and William Powe, be, and they are hereby, appointed commissioners for the north and south forks of the said river, for clearing and making navigable the said river, from Pon Pon Bridge, up to the forks of the said river; and also, the north and south forks or branches thereof; and the said commissioners, or a majority of them, respectively, are hereby directed, required, and empowered, forthwith to cause the same to be done, and a free and clear passage of not less than thirty feet wide in the said river and the said forks or branches thereof, so to be cut and made, as far as the same will admit of that width; and in all other parts where the said river, or branches or forks thereof, are less than thirty feet wide, then to be cleared to the full width of the same, from Pon Pon Bridge as aforesaid, to the heads of the said forks or branches, or so near thereto as it is practicable to clear and make the same navigable,

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as aforesaid; and that the said commissioners, or a majority of them, respectively, shall have full power and authority to contract and agree with fit and proper persons for doing the same.

II. *And be it further enacted* by the authority aforesaid, That the said commissioners, or a majority of them, shall and may, towards defraying the expense of the said work, draw orders, not exceeding, in the whole, the amount of ten thousand pounds, that is to say:—four thousand pounds from the forks downwards, and for each of the said forks, three thousand pounds, on the public treasurers of this State, for any money which may become due or payable to any persons to be engaged or employed in doing the said work; and that the said orders shall be paid by the said treasurers, out of any monies of this State in the treasury.

III. *And be it further enacted* by the authority aforesaid, That in case any boat passing on the said river, or the said forks thereof, shall be unreasonably delayed or obstructed in its passage, by means of any mills erected or to be erected on the said river, or the said forks thereof, the owner of such mill, shall forfeit and pay to the owner of the said boat, the sum of two pounds, current money of this State, for the first hour, and one pound, like current money, for every hour thereafter, that the passage of the said boat shall be unreasonably delayed or obstructed by means of the said mill; to be recovered before a magistrate, in like manner as demands under twenty pounds, current money of this State, are, by the Act for trial of small and mean causes. *Provided*, the said forfeiture be sued for within ten days after it shall be incurred.

IV. *And be it further enacted* by the authority aforesaid, That this Act shall be liberally construed and deemed a public Act, and that it shall be judicially taken notice of as such. And in case any persons shall be sued or impleaded for any thing done in pursuance thereof, and the plaintiff or prosecutor in such suit shall become non-suit, or discontinue the same, or judgment shall pass for the defendants, they shall recover against the said plaintiff or prosecutor, treble costs of suit.

V. *And be it further enacted* by the authority aforesaid, That the said commissioners shall lay their accounts, upon oath, of all money which they shall receive and expend by virtue of this Act, before the General Assembly of this State, within nine months after drawing the same out of the public treasury, and pay the balance of such money, (if there shall be any balance in their hands after completing the work hereby directed to be done,) into the public treasury of this State, to be disposed of as the General Assembly shall direct.

VI. *And be it further enacted* by the authority aforesaid, That in case any of the commissioners hereby appointed shall die, depart this State or refuse to Act, the remaining commissioners shall choose a commissioner or commissioners in the room of him or them so dying, departing this State, or refusing to act; and the person or persons so chosen shall have the same powers and authorities, and be liable to the same duties, as the person or persons in whose room the said commissioner or commissioners are appointed.

In the Council Chamber, the 13th day of February, 1777.

Assented to: J. RUTLEDGE.

HUGH RUTLEDGE, *Speaker of the Legislative Council.*

JNO. MATHEWS, *Speaker of the General Assembly.*

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No. 1045.

AN ACT TO APPOINT COMMISSIONERS FOR OPENING AND ENLARGING
THE COMMUNICATION BETWEEN ASHLEY AND STONO RIVERS, AND FOR
CLEARING AND DEEPENING NEW CUT.

WHEREAS, the inland navigation of this State is of great importance to the trade and riches of the inhabitants, and many of the laws passed at different times for opening the same, are either expired or become useless, for want of proper persons to carry the same into execution, whereby several of the creeks or water-passages in the southern parts are almost stopped up, or become dangerous to pass through.

I. *Be it therefore enacted*, by his Excellency John Rutledge, Esq., President and Commander-in-Chief in and over the State of South Carolina, the Honorable the Legislative Council and General Assembly of the said State, and by the authority of the same, That Benjamin Elliott, Richard Hutson, William Gibbes, Thomas Tucker, Thomas Elliott, Benjamin Stone, Esq's., and Mr. Malarly Rivers, be, and they are hereby, appointed commissioners for opening the communication between Ashley and Stono Rivers, either through Wappoo Creek, in the old channel, or at the place formerly opened by the late William Elliott, Esq., deceased, whichever may appear to them, or a majority of them, to be the most expedient, so that at high water at neap tides, vessels drawing not more than seven feet water may pass and re-pass. And the said commissioners, or a majority of them, are hereby authorized and directed to erect a draw-bridge over such water-passage, and to agree with some proper person to attend the same at all times, by night as well as by day.

II. *And be it further enacted* by the authority aforesaid, That all vessels passing through the said cut, shall pay a toll of twenty shillings, currency, for every time they shall pass through the same. *Provided always*, that no boat or vessel shall pay any toll at the said bridge, unless the same shall be raised to admit such boat or vessel through. *And Provided, also*, that the masters or patroons, where they happen to be white men, and the owners, where they are not, of all boats or vessels, drawing six feet water, or upwards, which shall at any time stop the free passage through the said communication, shall be liable to pay the sum of five pounds per day to the owner or owners of every boat or vessel of a lighter draught of water, which shall thereby be prevented passing through the same; to be recovered before any magistrate for Charlestown district, unless it shall be proved, to the satisfaction of such magistrate, on the trial, that previous to such boat or vessel entering the mouth of the said cut, the master or patroon did apply to the keeper of the said draw-bridge, to know the depth of water in the said cut, at the last high water, immediately preceding, and the same appeared to be more than the draught of such boat or vessel.

III. *And be it further enacted* by the authority aforesaid, That a toll shall be paid according to the following rate, in the current money of this State, for passing and re-passing over the said bridge, viz: for every person, seven pence half-penny; for a horse, seven pence half-penny; for cattle, per head, seven pence half-penny; for every coach, chariot, chaise or cart, two shillings and six pence, (except from all persons with their carriages and horses, going to and returning from divine service, elections for members of Assembly, parish officers, or in times of alarm;) and the monies arising therefrom shall, after paying the yearly salary of a proper person to attend the said bridge, and other necessary expenses, be paid by

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the said commissioners, annually, into the public treasury of this State.

IV. *And be it further enacted* by the authority aforesaid, That Mor-ton Wilkinson, Dr. James Carsan, James Laroche, Francis Young, Benjamin Styles, Simon Berwick, and Joseph Slann, be, and they, or a majority of them, are hereby, appointed commissioners for enlarging, opening and clearing New Cut, so that at high water, at neap tides, vessels drawing not more than seven feet water may pass through the same.

V. *And be it further enacted* by the authority aforesaid, That the said commissioners for Wappoo, or a majority of them, shall and may, from time to time, draw upon the commissioners of the treasury for any sum of money not exceeding ten thousand pounds, current money, for defraying the expenses of opening and enlarging the same, and for purchasing a piece of land and building a house thereon, for the person who may be appointed to take care of the draw-bridge to be made over the said cut, to reside in. And the said commissioners for New Cut, or a majority of them, shall and may draw upon the treasury for any sum not exceeding four thousand pounds, current money; which sums, respectively, the commissioners of the treasury shall advance, out of any monies of this State, lying in the treasury. And in case of the death of either or any of the said commissioners hereby appointed, or his or their departing this State, or refusing to act, the remainder of the said commissioners, respectively, shall, and are hereby directed to, choose another commissioner or commissioners in the room of him or them so dying, refusing to act, or departing the State; and the said commissioners, respectively, are hereby directed to carry this law into execution, without delay.

VI. *And be it further enacted* by the authority aforesaid, That the commissioners appointed and to be appointed by and by virtue of this Act, shall, within six months after they shall have drawn any money out of the treasury, for the purposes aforesaid, lay full and fair accounts, upon oath, of the disbursement and expenditure thereof, before the General Assembly, if sitting, and if not, lodge such accounts in the office of the treasury of this State.

VII. *And be it further enacted* by the authority aforesaid, That all former Acts, and clauses of Acts, of the General Assembly, respecting Wappoo and New Cut, shall, and they are hereby declared to, be null and void, to all intents and purposes whatsoever; any thing therein contained to the contrary notwithstanding.

In the Council Chamber, the 13th day of February, 1777.

Assented to: J. RUTLEDGE.

HUGH RUTLEDGE, *Speaker of the Legislative Council.*

JNO. MATHEWS, *Speaker of the General Assembly.*

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AN ACT FOR CLEARING AND MAKING NAVIGABLE TULIFINY CREEK,
FROM THE BRIDGE KNOWN BY THE NAME OF THE TULIFINY BRIDGE,
TO THE MILL-DAM OF BARNARD ELLIOTT, ESQ. No. 1068.

WHEREAS, Barnard Elliott, Esq., hath, by his petition to the General Assembly, represented that he hath, at a considerable expense, erected a saw-mill on Tulifiny Creek, at the head of Port-Royal, Broad River, but that the navigation of the said creek is obstructed by many trees, which have fallen therein, whereby he is prevented from bringing to market the lumber which has been sawed at his mill, unless he could be permitted to clear the said creek, which he is ready and willing to do at his own expense. And *whereas*, the opening and keeping clear the navigation of the rivers and creeks throughout the State, would tend very much to the benefit of the same.

I. *Be it therefore enacted*, by his Excellency John Rutledge, Esq., President and Commander-in-Chief in and over the State of South Carolina, by the Honorable the Legislative Council and General Assembly, and by the authority of the same, That the said Barnard Elliott, his heirs and assigns, shall be, and he is and they are hereby empowered, by him and themselves, his and their agents, workmen and servants, to clear, keep navigable and have the free use of the said creek, as a public navigable creek, from Tulifiny Bridge, up to the mill-dam of the said Barnard Elliott. *Provided, nevertheless*, that nothing herein contained shall be construed so as to enable the said Barnard Elliott to widen the navigation of the said creek, in any part thereof where the same passes through the lands of any person or persons, by cutting any of the planting land belonging to him or them.

II. *And be it further enacted* by the authority aforesaid, That this Act shall be allowed in all courts whatever, as a public Act, and all judges, justices and other persons are hereby required to take notice of it as such, without specially pleading the same.

In the Council Chamber, the 5th day of March, 1778.

Assented to: J. RUTLEDGE.

HUGH RUTLEDGE, *Speaker of the Legislative Council.*

THOS. BEE, *Speaker of the General Assembly.*

AN ACT FOR OPENING THE NAVIGATION OF LYNCHÉ'S AND CLARKE'S CREEKS, AND APPOINTING COMMISSIONERS FOR SUPERINTENDING THE SAME. No. 1069.

WHEREAS, several of the inhabitants of the parishes of St. David, St. Mark, and Prince Frederick, have, by their petition, set forth that the interest of the State, in general, and of those parishes, in particular, would be much advanced by the clearing of the creeks known by the names of Lynché's Creek and Clarke's Creek :

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I. *Be it therefore enacted*, by his Excellency John Rutledge, Esq., President and Commander-in-Chief of the State of South Carolina, by the Honorable the Legislative Council and the General Assembly, and by the authority of the same, That all male inhabitants, from the age of sixteen to sixty years, residing within two miles of either side of Lynche's Creek, from the fork of the said creek, down to Robert Weatherspoon's Ferry, shall be liable to work on and clear the said creek, and keep open the navigation thereof, and shall not be liable to work on any public road whatever. And all male inhabitants, from the age of sixteen to sixty years, residing within one mile of either side of the said creek, and of Clarke's Creek, from Robert Weatherspoon's Ferry, to the place where the said creek empties itself into Peedee River, shall be liable, as well to clear and keep open the navigation of the same, as to work on the high roads leading from Robert Weatherspoon's Ferry and Francis Britton's Ferry, to Black Mingo. *Provided always, nevertheless*, that nothing herein contained shall be construed so as to oblige any of the last mentioned inhabitant or inhabitants to work on the said creek for a greater number of days in the year than shall be employed in working upon the said roads.

II. *And be it further enacted* by the authority aforesaid, That Thomas Bradly, Elias Dubose, Daniel Dubose, Clement Brown, Thomas Hardiman, Samuel Radcliffe, and Isham Hatcher, commissioners for St. David's and St. Mark's, and Daniel Myers, Simeon Simmons, Richard Rennells, Austin Stone, John James, Jun., and William Snow, commissioners for Prince Frederick's Parish, be, and they are hereby, appointed commissioners for carrying into execution this Act, and shall have the same powers and authority, and be under the same restrictions, in clearing the said creeks and keeping open the navigation thereof, as any commissioners of high roads and public paths, in any part of the State, are vested with, or subject to; any law, usage or custom to the contrary thereof in any wise notwithstanding.

III. *And be it further enacted* by the authority aforesaid, That this Act shall continue in force for the term of three years, and no longer.

In the Council Chamber, this 5th day of March, 1778.


Assented to: J. RUTLEDGE.

HUGH RUTLEDGE, *Speaker of the Legislative Council.*

THOS. BEE, *Speaker of the General Assembly.*

No. 1104. AN ACT TO OBLIGE ALL MALE INHABITANTS, FROM SIXTEEN TO SIXTY YEARS OF AGE, RESIDING ON OR NEAR WACCAMAW RIVER, TO WORK ON AND LAY OPEN THE NAVIGATION OF THE SAID RIVER, AND FOR APPOINTING COMMISSIONERS FOR CARRYING THIS ACT INTO EXECUTION.

WHEREAS, several inhabitants of the upper districts of Prince George and All Saints Parishes, residing on Waccamaw River, and parts adjacent thereto, have, by their petitions to the Legislative Council and General Assembly, respectively, set forth that they have long labored under great dangers and disadvantages, both to their persons and effects, by reason of the

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said river being greatly incommoded and rendered almost impassable, by the logs and trees which have fallen therein, particularly from the bluff called Holder's Bluff, to the boundary line of this State; and, therefore, prayed that a law may be passed for clearing the navigation of the said river.

I. *Be it therefore enacted*, by his Excellency Rawlins Lowndes, Esquire, President and Commander-in-Chief in and over the State of South Carolina, by the Honorable the Legislative Council and General Assembly of the said State, and by the authority of the same, That all male inhabitants, from sixteen to sixty years of age, residing between the sea and the east side of Waccamaw River, from the boundary line down to Holder's Bluff and Lewis's Swash, at the north-east end of Long Bay; and also, all such male inhabitants, from the age of sixteen to sixty years, residing within two miles of the west side of said river, from the boundary line to Holder's Bluff, shall be liable to work on and clear the said river, from the bluff aforesaid, up to the boundary line, and keep open the navigation thereof; but that they shall not be compellable to work upon the same for a longer time than twelve days in the year.

II. *And be it enacted* by the authority aforesaid, That William Verreen, Alexander Dunn, and Daniel Morral, for the upper district of All Saints Parish, and Dennis Hankin, John Baxter and Richard Singleton, for the upper district of Prince George's Parish, be, and are hereby, appointed commissioners for carrying this Act into execution; and shall have the same powers and authority, be under the same restrictions, and liable to the same penalties, in clearing the said river, and keeping open the navigation thereof, as any commissioners of high roads and public paths, in any part of the State, are vested with, or subject to; any law, usage or custom to the contrary thereof, in any wise, notwithstanding.

III. *And be it enacted* by the authority aforesaid, That this Act shall continue in force for the term of three years, and no longer.

In the Council Chamber, the 9th day of October, 1778.

Assented to: RAW'S. LOWNDES.

HUGH RUTLEDGE, *Speaker of the Legislative Cou* i

THOS. BEE, *Speaker of the General Assembly.*

AN ACT TO APPOINT AND EMPOWER COMMISSIONERS TO LAY OUT, CUT, No. 1139.
SINK, CLEAN, AND KEEP CLEAN AND IN REPAIR, A CUT OR WATER
PASSAGE, FROM ASHEPOO RIVER TO PON PON RIVER, AND FROM ASHE-
POO RIVER TO CHEEHAW RIVER; AND FOR OTHER PURPOSES THEREIN
MENTIONED.

WHEREAS, several of the inhabitants residing near the said rivers, Cheehaw and Ashepoo, and others interested in the safe navigation therefrom to Charlestown, have, by their petition, set forth, that by the cutting a creek or water passage from Ashepoo to Pon Pon river, at the upper end of the Goose Marsh, between the said rivers, and also, from Cheehaw river to

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Ashepool river, the water passage from the southern part of the State to Charlestown, will be much shorter, and in this time of war, much safer than by Bennet's point and Musqueto creek.

I. *Be it therefore enacted* by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That Philip Smith, Esqr. John Godfrey, jr., and Edmund Bellinger, jr. be, and they are hereby, appointed commissioners for cutting, sinking, cleaning, and keeping clean and in repair, a navigable water passage or cut, out of Ashepool river into Pon Pon river; and that Thomas Hutchinson, sr. Esqr., Cato Fields, and Colonel William Skirving, be, and they are hereby, appointed commissioners for cutting, sinking, and cleaning, and keeping clean and in repair, a navigable water passage or cut, out of Cheehaw river into Ashepool river, at such place through the Marshes between the said rivers, as the said respective commissioners, or a majority of them, shall judge to be most convenient, and as near as may be, from Ashepool river to Pon Pon river, and from Cheehaw river to Ashepool river, and to such a depth and breadth as they shall think necessary; *provided*, that the same do not exceed thirty feet in breadth and eight in depth. And all the male persons from the age of sixteen to sixty years, making use of or residing on any landing on the said Ashepool river, or any of the branches thereof, and Cheehaw river, or any branches thereof, (all the Islands below the said intended cuts excepted,) shall personally work, in cutting, cleansing, and keeping in repair, the said cuts or water passages, that is to say:—such persons making use of or residing on any landing on the said Ashepool river, or any of the branches thereof, shall personally work in cutting, cleaning, and keeping in repair, the said cut or water passage from Ashepool to Pon Pon river; and the persons making use of or residing on any landing on the said Cheehaw river, shall personally work in cutting, cleaning, and keeping in repair, the said cut or water passage from Cheehaw river to Ashepool river; if the said commissioners, respectively, shall be of opinion, that such personal work will be the most expeditious method of cutting said water passages, otherwise, the said commissioners, respectively, or any two of them, respectively, shall have power, and they, respectively, are hereby fully empowered and authorized, to agree with any proper person or persons to undertake the sinking, cutting, cleansing, and repairing of the said water passages, as they, or either of them, the said commissioners, respectively, shall see meet; and assess such sum or sums of money, as they, respectively, shall agree for, on the said male inhabitants residing as aforesaid.

II. *And be it further enacted* by the authority aforesaid, That the said commissioners, or a majority of them, respectively, are hereby authorized and empowered to appoint one or more person or persons, within the aforesaid limits, to summon all such male persons as are hereinbefore expressed, to work on the said cuts or water passages; and in case such person or persons, after summons, and three days notice given, shall neglect or refuse to go and send all the male persons so warned by the said person or persons appointed for that service, every such person so neglecting or refusing, shall, for himself and all other male persons belonging to him, forfeit the sum of three pounds currency per day, for each such male person; to be levied by virtue of a warrant, under the hands and seals of said commissioners, respectively, or a majority of them, respectively, and to be by them respectively applied in keeping clean and in repair the said water passages, respectively; and the said commissioners, respectively, or any

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two of them, shall have as full and ample power and authority for compelling the said inhabitants to work on the said cuts or water passages, respectively, as for laying the assessment, to be by them respectively made, to all intents and purposes whatever, as are given to any commissioners for high roads, bridges or water passages, by any Act or Acts of the Legislature of this State.

III. *And be it further enacted* by the authority aforesaid, That if any of the commissioners herein named shall die, depart this State, or refuse to act, that in all and every such case, the surviving or remaining commissioner or commissioners, respectively, or a majority of them, shall have full power and authority, to nominate and appoint another commissioner or commissioners, in the room or stead of him or them so dying, departing this State or refusing to act; which commissioner or commissioners so to be nominated and appointed, after having due notice thereof, from the person or persons so nominating or appointing him or them, shall have the same and as full powers and authorities, as any of the commissioners, respectively, hereinbefore named.

*Ratified by the General Assembly, in the Senate House,
the 11th day of September, 1779.*

CHARLES PINCKNEY, *President of the Senate.*

THOMAS FARR, *Speaker of the House of Representatives.*

AN ORDINANCE TO OBLIGE THE MALE INHABITANTS, FROM SIXTEEN No. 1169.
TO SIXTY YEARS OF AGE, RESIDING IN THE UPPER DISTRICTS OF ALL SAINTS AND PRINCE GEORGE'S PARISHES, ON OR NEAR WACCAMAW RIVER, TO WORK ON AND LAY OPEN THE NAVIGATION OF THE SAID RIVER; AND FOR APPOINTING COMMISSIONERS FOR CARRYING THE SAID ORDINANCE INTO EXECUTION.

WHEREAS, many inhabitants of the upper districts of Prince George and All Saints parishes, residing on Waccamaw river, and parts adjacent thereto, have long labored under great dangers and disadvantages, both to their persons and effects, by reason of the said river being greatly incommoded and rendered almost impassable, by the logs and trees which have fallen therein, particularly from the bluff called Holders's Bluff, to the boundary line of this State.

I. *Be it therefore ordained* by the Honorable the Senate and House of Representatives of the said State, now met and sitting in General Assembly, and by the authority of the same, That all male inhabitants, from sixteen to sixty years of age, residing between the sea and the east side of Waccamaw river, from the boundary line to Holders's Bluff, and from thence, in a direct line across to Lewis's Swash, at the north east end of Long Bay; and also, all such male inhabitants, from the age of sixteen to sixty years, residing between the said river and Pleasant Meadow road, from the boundary line to Kingston, including Graham's and Johnston's settlement; and from Kingston, such male inhabitants, from the age of sixteen to sixty

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years, residing within ten miles of the west side of said river, to Holders's Bluff, shall be liable to work on and clear the said river, from the Bluff aforesaid, up to the boundary line, and keep open the navigation thereof; but, that they shall not be compellable to work upon the same for a longer time than twelve days in the year.

H. *And be it further ordained* by the authority aforesaid, That Daniel Murrell and Benjamin Gauze, for the upper district of All Saint's parish, and John Warden, Abraham Bellamy, and Robert Reynolds, for the upper district of Prince George's parish, be, and they are hereby, appointed commissioners for carrying this ordinance into execution; and shall have the same powers and authority, be under the same restrictions, and liable to the same penalties, in clearing the said river, and keeping open the navigation thereof, as any commissioners of high roads and public paths in any part of this State, are vested with or subject to; any law, usage or custom to the contrary thereof in any wise notwithstanding.

In the Senate House, the twelfth day of March, in the year of our Lord one thousand seven hundred and eighty-three, and in the seventh year of the Independence of the United States of America.

JOHN LLOYD, *President of the Senate.*

HUGH RUTLEDGE, *Speaker of the House of Representatives.*

No. 1182. AN ORDINANCE TO EMPOWER COMMISSIONERS THEREIN NAMED, TO CUT AND SINK DRAINS AND WATER PASSAGES IN THE SWAMP AND SAVANNAHS FORMED BY THE NORTH EAST BRANCH OF STONO RIVER.

WHEREAS, many valuable tracts of land lying on the Swamp and Savannahs formed by the north east branch of Stono river, cannot be seasonably cultivated for want of sufficient drains therein, to the great detriment of the proprietors of the said land.

I. *Be it therefore ordained* by the Honorable the Senate and House of Representatives, in General Assembly met, and by the authority of the same, That Arthur Middleton, Isaac McPherson, Henry Nichols, Robert Miles, John Miles, Robert Ladson, Edward Perry, John Godfrey, and George Haig, be, and they are hereby, constituted and appointed commissioners for, and they, or a majority of them, are hereby authorized and empowered, to lay out, cut, sink, and maintain, and keep in repair, and to agree for the laying out, sinking, maintaining, and keeping in repair, a free drain or passage, to carry the waters off the said swamp and savannahs, from the most convenient place on the said north east branch of Stono river, to be continued through the said swamp to Horse Savannah, there to divide into two drains, one to be continued through Horse Savannah, and the other through Jack's Savannah, as far as will be necessary for carrying the intention of this Ordinance into execution; and the said commissioners, or a majority of them, shall have power, and they are hereby authorized, to lay out and make the said drains or passages, in the said swamp and savannahs, at such time, and in such manner, as they shall think most convenient for the purposes intended by this Ordinance.

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II. *And be it further ordained* by the authority aforesaid, That the drains or passages in the said swamp, shall be laid out, made, and kept in repair, at the expense of the owners and proprietors of the lands which shall be benefited by the said drains and passages, and by the labor of the slaves employed on any such lands.

III. *And be it further ordained* by the authority aforesaid, That the said commissioners, or a majority of them, shall have power and authority, and they are hereby fully empowered and authorized, to employ overseers to inspect the making of the said drains or passages, and keeping the same in repair, and to do all such matters as they, the said commissioners, shall be of opinion will best tend to carrying this Ordinance into execution.

IV. And that the said drains and passages may be speedily finished, *Be it further ordained* by the authority aforesaid, That all the male slaves, from the age of sixteen to sixty years, residing or employed on any lands within the limits aforesaid, shall be, and they are hereby, obliged and required to work on the said drains or passages, at such time or times as the said commissioners, or a majority of them, shall appoint for that purpose. And in case the owner or owners of any such slaves, shall neglect or refuse to send the same to work on the said drains or passages, at any time when required so to do by the said commissioners, or a majority of them, every such owner and owners shall forfeit and pay for every neglect or refusal, a sum not exceeding three shillings sterling, per day, for every such slave that he, she or they, shall so neglect or refuse to send; to be recovered by warrant, under the hands and seals of the said commissioners, or a majority of them, and to be applied toward defraying the expense of making the said drains or passages, and keeping the same in repair.

V. *And be it ordained* by the authority aforesaid, That the owners of any lands that are on the said swamp and savannahs within the bounds aforesaid, who have no settlement on such lands, either with servants or slaves, and whose lands may be benefited by such drains or water passages, shall pay into the hands of the said commissioners, or their successors, or either of them, all such sum or sums of money which they may be taxed or assessed by the said commissioners, or a majority of them, for cutting, sinking, clearing, and making the said drains or water passages; and in case the owners of such lands, or any of them, shall neglect or refuse to pay the sums from them respectively due, or in case the said owners of such lands, or any of them, shall neglect or refuse to pay the said commissioners, or their survivors, yearly and every year, the sum of three pounds sterling, for every computed hundred acres of swamp or savannah land, and so in proportion for a greater or lesser quantity, after the said drains or passages shall be fully completed and finished, towards cleaning and keeping in repair the said drains or water passages, it shall and may be lawful for the said commissioners, their successors, or a majority of them, to levy all such sum or sums so due, by warrant, under their hands and seals as aforesaid; but in case it shall happen that the defaulter or defaulters shall have no goods on which distress can be made, then it shall and may be lawful for the said commissioners, their successors, or the majority of them, to cause to be felled and cut down upon the defaulter's lands, or any part thereof, and to make sale of so much timber or timber trees, as will be sufficient to raise the sum or sums hereby taxed or assessed, and made due and payable for such defaulter's lands; the said timber being first viewed, appraised and valued by, and certified under the hands and seals of, any three freeholders of the parish in which the said lands are situated, to be

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appointed by the said commissioners, their successors, or the majority of them, for that purpose; and in case there should be no timber trees growing on the said lands, then the said commissioners, or a majority of them, are authorized to lease the aforesaid lands, to such person or persons as may be willing to hire the same, for any term not exceeding four years; which leases are hereby declared to be valid, and of as full force and effect, as if they had been made and executed by the proprietors of the said lands, respectively.

VI. *And be it ordained* by the authority aforesaid, That if any person or persons whatsoever, by themselves, their servants or slaves, shall, by any ways or means, hinder or oppose the said commissioners, their successors, or such person or persons as they shall contract, agree with or appoint, their servants or workmen, from cutting, sinking, clearing, and making the said drains and water passages, or from cutting down, felling, or making use of any timber, wood, earth or stones, in or near the said drains or water passages, or from mending or repairing the same as aforesaid, shall, for every such offence, forfeit the sum of one hundred pounds sterling; to be recovered by the said commissioners, their successors, or the majority of them, by action of debt, bill, plaint or information, in any court of Record in this State; and the monies so recovered, to be disposed of for cutting, sinking, clearing, making, and keeping in repair, the said drains or water passages.

VII. *And be it ordained* by the authority aforesaid, That if any of the said commissioners shall die, or depart this State, or shall refuse or neglect to act, it shall and may be lawful for the remainder of the commissioners, or the majority of them, to elect one or more commissioners, in their room, or in default of such election, for the Governor or Commander-in-chief for the time being to appoint, and the person or persons so elected or appointed, shall be invested with, and he or they shall and may lawfully use, exercise and enjoy, the same powers and authorities, in as full and ample manner, to all intents and purposes whatsoever, as the commissioners hereby appointed, can, or lawfully may, or ought to do.

VIII. *And be it further ordained* by the authority aforesaid, That if any person or persons whatsoever, shall be sued, prosecuted or molested, for any matter or thing done by virtue of this Act, such person or persons may plead the general issue, and give this Act and the special matter in evidence; and in case the plaintiff or plaintiffs shall suffer a discontinuance, or verdict or judgment shall pass against him or them, the defendant or defendants shall be allowed his and their treble costs of suit.

In the Senate House, the sixteenth day of March, in the year of our Lord one thousand seven hundred and eighty-three, and in the seventh year of the Independence of the United States of America.

JOHN LLOYD, *President of the Senate.*

HUGH RUTLEDGE, *Speaker of the House of Representatives.*

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No. 1226.

AN ACT TO PREVENT THE DAMING UP BROAD, SALUDA, PACOLATE, TYGER, AND ENOREE RIVERS, AND STEVENS'S CREEK, OR OTHERWISE OBSTRUCTING THE FISH FROM PASSING UP THE SAID RIVERS; AND TO OBLIGE SUCH PERSONS WHO HAVE ALREADY DAMED OR OTHERWISE OBSTRUCTED THE PASSAGE OF FISH IN SAID RIVERS, TO OPEN THE SAID DAMS OR OBSTRUCTIONS, SO AS FISH MAY PASS.

WHEREAS, the obstructing of Broad, Saluda, Pacolate, Tyger, and Enoree rivers, and Stevens's creek, is attended with great detriment and injury to the inhabitants residing on or near the said rivers and creek, in as much as the fish therein are prevented from going to the source of the same.

I. *Be it therefore enacted* by the Honorable the Senate and House of Representatives of the State of South Carolina, in General Assembly met, and by the authority of the same, That from and after the passing of this Act, any person or persons obstructing any of the said rivers or creek, by dams or otherwise, so as to prevent the fish of the said rivers from freely passing up the same, shall, on conviction thereof, before two justices of the district where the offence shall or may be committed, be subject and liable to pay the sum of twenty shillings, for every day they shall keep up such dam or other obstruction, the one half thereof to the informers, and the other half to the use of the public of the State.

II. *And be it further enacted* by the authority aforesaid, That within six months from and after the passing of this Act, the owner or owners of all dams or other obstructions on any of the said rivers, shall be obliged to build sluices, or make openings in their respective dams or obstructions, so as that the fish may at all times freely pass and repass up or down the said rivers; in default whereof, the said persons so offending, shall, on conviction thereof as aforesaid, forfeit and pay the sum of forty shillings for every day such obstruction shall continue; the said fine to be applied in the way and manner hereinbefore directed.

III. *And be it further enacted* by the authority aforesaid, That if any person or persons shall be sued for carrying this law into execution, he or they may plead the general issue, and give this Act in evidence.

In the Senate House, the twenty-sixth day of March, in the year of our Lord one thousand seven hundred and eighty-four, and in the eighth year of the Independence of the United States of America.

JOHN LLOYD, *President of the Senate.*

HUGH RUTLEDGE, *Speaker of the House of Representatives.*

AN ORDINANCE TO APPOINT COMMISSIONERS FOR CLEARING WALL'S CUT, EDISTO, WATeree, GREAT AND LITTLE PEEDEE RIVERS. No. 1243.

WHEREAS, clearing the cut and rivers hereinafter mentioned, will be of great and general benefit.


I. *Be it therefore ordained* by the Honorable the Senate and House of Representatives, met in General Assembly, and by the authority of the

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same, That John Joyner, Thomas Talberd, John Talberd, John Screven, and Jacob Guerard, shall be, and they are hereby, appointed commissioners for clearing the cut commonly called Wall's cut; John Rutledge, Peter Youngblood, Henry Felder, Thomas Ferguson, and William Hill, for clearing Edisto river and the north fork thereof, as high up as it shall appear to the said commissioners practicable to make the said fork navigable—Joseph Kershaw, John Chesnut, William Lang, Samuel Boykin, and Daniel Huger, for clearing Wateree river, as high up as Camden; and Benjamin Hix, sr., George Hicks, and Thomas Powe, Wm. Kershaw, and William Pegues, for cleaning Great Peedee river, as high up as the North Carolina line; and Jonathan Brown, Henry Davis, David Davis, and Jas. Smith, for clearing Little Peedee, from the fork of Drowning Creek, down to the mouth of the said river. And that the said John Joyner, Thomas Talberd, John Talberd, John Screven, and Jacob Guerard, or a majority of them, shall have full power and authority to contract and agree with any persons for making Wall's cut wider and deeper, and for having the sides of the said cut secured by piles or stakes, in such manner as the said commissioners shall judge most proper and effectual for enabling large boats to pass through the same; that the said Joseph Kershaw, John Chesnut, William Lang, Samuel Boykin, and Daniel Huger, or a majority of them, shall have power and authority to contract and agree with any persons to remove all obstructions in Wateree river, so as to make it navigable as high up the said river in Camden; and that the said Benjamin Hicks, sr., George Hicks, Thomas Powe, William Kershaw, and William Pegues, or a majority of them, shall be, and they are hereby, empowered to contract and agree with any persons, to remove all obstructions in Great Peedee river, as high up as the North Carolina line; to effect which purposes, each set of commissioners may draw orders on the treasury, for any sums of money not exceeding three hundred pounds sterling, which orders, the commissioners of the treasury shall pay out of any unappropriated money in the treasury; and the said Jonathan Brown, Henry Davis, David Davis, and James Smith, or a majority of them, shall have power and authority to contract and agree with any persons, to remove all obstructions in Little Peedee river, from the fork of Drowning creek, down to the mouth of Little Peedee river; to effect which purpose, they may draw orders on the commissioners of the treasury, for any sum of money not exceeding one hundred pounds sterling, which orders shall be paid out of any unappropriated money in the treasury.

II. *And be it further ordained* by the authority aforesaid, That John Rutledge, Peter Youngblood, Henry Felder, Thomas Ferguson, and William Hill, shall be, and they are hereby, appointed commissioners for clearing Edisto river, and the north fork thereof, as high up the said fork as it shall appear to the said commissioners, or a majority of them, practicable to extend the navigation of the said fork; *provided*, that the navigation shall be extended to within fifteen or twenty miles of the ridge; and that the said commissioners, or a majority of them, shall have power and authority to contract and agree with any person or persons so to do, and upon such persons completing the said work to the satisfaction of the said commissioners, or a majority of them, they shall give to the persons completing the same, a certificate that they have done so; and the said persons, their executors, administrators or assigns, shall be thereupon entitled to receive and take by way of toll, at the rate of eight shillings for every Hogshead of rum, six pence for every bushel of salt, one penny on every hundred

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pounds weight of all other goods, carried in any boat or vessel, to the place on the north fork of Edisto river, to which the navigation thereof shall be so extended; and eight shillings for every Hogshead of Tobacco, one shilling on every barrel of flour, three pence on every bushel of corn or other grain, and one shilling on every hundred pounds weight of any other goods brought in any boat or vessel, from the said north fork of Edisto; but that rafts of all kinds shall pass free of toll for twelve years next after the passing of this Ordinance; which tolls, the gatherers thereof shall be entitled to receive before the passage of boats, from and to the places above mentioned, respectively.

III. *And be it further ordained* by the authority aforesaid, That the persons who may be entitled to such toll, shall, during the said term, keep the said river and the north branch thereof, as high up the same as above mentioned, free and clear from all obstructions and impediments to their navigation; and in default of so doing, shall thenceforward lose all benefit of this Ordinance.

IV. And in order to encourage persons to undertake the clearing the said river, and the north fork thereof as aforesaid, *Be it also ordained* by the authority aforesaid, That the south fork of the said river shall not be opened or made navigable within the said term of twelve years.

In the Senate House, the twenty-sixth day of March, in the year of our Lord one thousand seven hundred and eighty-four, and in the eighth year of the Independence of the United States of America.

JOHN LLOYD, *President of the Senate.*

HUGH RUTLEDGE, *Speaker of the House of Representatives.*

AN ORDINANCE TO EMPOWER COMMISSIONERS THEREIN NAMED TO CUT AND SINK DRAINS AND WATER-PASSAGES IN CACAW SWAMP, ST. PAUL'S PARISH. No. 1244.

WHEREAS, the several laws heretofore passed for sinking drains and water-passages in the said swamp, have not proved effectual for the purpose therein intended:

I. *Be it therefore ordained*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That Melcher Garner, John Sommers, Robert Miles, George Haig, and Andrew Johnston, be, and they are hereby, appointed commissioners for, and they, or a majority of them, are hereby authorized and empowered, to lay out, cut, sink, maintain and keep in repair, and to agree for the laying out, sinking and maintaining and keeping in repair, one or more free drains or passages on each side of the said swamp, near the high land, and also one other through or near the middle of the swamp, on each branch of the same, to carry off the waters from Hide-Park Causey, on one branch, and Mr. Ferguson's Causey on the other branch, and to be continued to the north-east part of the land belonging to the estate of James Stanyarne, deceased, and the most convenient place or places on the opposite side; and the said commissioners, or a majority of them, shall

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have power, and they are hereby authorized to, lay out and make the said drains and water-passages in the said swamp, at such time and in such manner as they shall think most convenient for the purposes intended by this Ordinance.

II. *And be it further ordained* by the authority aforesaid, That the said drains shall be laid out, made and kept in repair at the proportionable expense of the owners and proprietors of the lands within the bounds aforesaid, which shall be benefitted by the said drains or passages, and by the labor of the slaves employed on any such lands.

III. *And be it further ordained* by the authority aforesaid, That the said commissioners, or a majority of them, shall have power and authority, and they are hereby fully empowered and authorized, to employ overseers to inspect the making the said drains or water-passages, and keeping the same in repair, and to do all such matters as they, the said commissioners, shall be of opinion will best tend to carry this Ordinance into execution. The said commissioners, or a majority, shall choose three freeholders of the parish of St. Paul, to fix and ascertain the value of all the lands on the said swamp, within the limits aforesaid, which shall be benefitted by the said drains or water-passages; and from the valuation made, as aforesaid, by the said freeholders, on oath, and delivered to the said commissioners, under their hands and seals, the said commissioners, or a majority of them, shall make an assessment on the several owners of the said lands, according to the valuation aforesaid, towards making and keeping in repair the said drains or water-passages.

IV. *And be it further ordained* by the authority aforesaid, That the owners of all lands on the said swamp, within the bounds aforesaid, whose lands may be benefitted by such drains or water-passages, shall pay into the hands of the said commissioners, or their successors, or either of them, all such sum or sums of money as they may be taxed or assessed by the said commissioners, or a majority of them, for the valuation so to be made by the said freeholders. And it shall and may be lawful for the said commissioners and their successors, or the majority of them, to levy all such sum or sums so due, by warrant under their hands and seals, as aforesaid. But in case it shall so happen that the defaulter or defaulters shall have no goods on which distress can be made, then it shall and may be lawful for the said commissioners, their successors, or the majority of them, to lease the aforesaid lands, or any part thereof, to such person or persons as may be willing to hire the same, for any term not exceeding four years; which leases are hereby declared to be valid, and of as full force and effect as if they had been made and executed by the proprietors of the said lands, respectively; any former or other lease to any other person notwithstanding.

V. *And be it ordained* by the authority aforesaid, That if any person or persons whatsoever, by themselves, their servants or slaves, shall, by any ways or means, hinder or oppose the said commissioners, their successors, or such person or persons as they shall contract, agree with or appoint, their servants or workmen, from cutting, sinking, clearing and making the said drains or water-passages, or for cutting down, felling or making use of any timber, wood, earth or stones, in or near the said drains or water-passages, or from mending or repairing the same, as aforesaid, or shall stop either of the said drains, or prevent the free passage of water through the same, from the fifteenth day of September until the fifteenth day of July, in each or any year, shall, for every such offence, forfeit the sum of one hundred pounds sterling, to be recovered by action of debt, in any court of record in

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this State ; and the monies so recovered to be disposed of for cutting, sinking, clearing, making and keeping in repair the said drains or water-passages.

VI. *And be it ordained* by the authority aforesaid, That if any of the said commissioners shall die or depart this State, or shall refuse or neglect to act, it shall and may be lawful for the remainder of the commissioners, or the majority of them, to elect one or more commissioner or commissioners in their room, or in default of such election, for the Governor or Commander-in-Chief for the time being, to appoint ; and the person or persons so elected or appointed, shall be invested with, and he or they shall and may lawfully use, exercise and enjoy, the same powers and authorities, in as full and ample manner, to all intents and purposes whatsoever, as the commissioners hereby appointed can, or lawfully may, or ought to do.

VII. *And be it further ordained* by the authority aforesaid, That if any person or persons whatsoever, shall be sued, prosecuted or molested, for any matter or thing done by virtue of this Ordinance, such person or persons may plead the general issue, and give this Ordinance and the special matter in evidence. And in case the plaintiff or plaintiffs shall suffer a discontinuance, or verdict or judgment shall pass against him or them, the defendant or defendants shall be allowed his and their double costs of suit.

In the Senate House, the twenty-sixth day of March, in the year of our Lord one thousand seven hundred and eighty-four, and in the eighth year of the Independence of the United States of America.

JOHN LLOYD, *President of the Senate.*

HUGH RUTLEDGE, *Speaker of the House of Representatives.*

AN ORDINANCE TO OBLIGE THE MALE INHABITANTS FROM SIXTEEN TO SIXTY YEARS OF AGE, RESIDING WITHIN FOUR MILES OF BLACK RIVER, IN GEORGETOWN DISTRICT, TO WORK ON AND LAY OPEN THE NAVIGATION OF THE SAID RIVER, AND FOR APPOINTING COMMISSIONERS FOR CARRYING THE SAME INTO EXECUTION. No. 1249.

WHEREAS, many of the inhabitants residing in the neighborhood of Black River, in the district of Georgetown, have labored under many and great inconveniencies, by reason of the said river being very much obstructed and rendered almost impassable, by the many logs and trees which have fallen therein, in different places, especially as it approaches near the line of the said district.

I. *Be it therefore ordained*, by the Honorable the Senate and House of Representatives of the said State, now met and sitting in General Assembly, and by the authority of the same, That all male inhabitants from the age of sixteen to sixty, residing within four miles of the said river, from the ferry near the parish church of Prince Frederick, called North's Ferry, upwards to the boundary line of Georgetown district, shall be liable to work on and clear the said river from obstructions, and to open the navigation, and to keep it so, from Georgetown up to the said district line : but

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shall not be compellable to work on the same for a longer time than six days in every year.

II.. *And be it further ordained* by the authority aforesaid, That Robert Frierson, John Matthis, James Witherspoon, jun., William M'Collough, and John Witherspoon, sen., be, and they are hereby, appointed commissioners for carrying this Act into execution, and shall have the same powers and authority, be under the same restrictions and hable to the same penalties, in clearing the said rivers and keeping open the navigation of the same, as any commissioners of high roads and public paths, in any part of the State, are vested with, or subject to; any law, usage or custom to the contrary thereof, in any wise, notwithstanding.

In the Senate House, the twenty-sixth day of March, in the year of our Lord one thousand seven hundred and eighty-four, and in the eighth year of the Independence of the United States of America.


JOHN LLOYD, *President of the Senate.*

HUGH RUTLEDGE, *Speaker of the House of Representatives.*

No. 1273. AN ORDINANCE TO AMEND AN ORDINANCE ENTITLED "AN ORDINANCE TO EMPOWER COMMISSIONERS THEREIN NAMED TO CUT AND SINK DRAINS AND WATER-PASSAGES IN THE SWAMP AND SAVANNAHS FORMED BY THE NORTH-EAST BRANCH OF STONO RIVER," PASSED THE SIXTEENTH DAY OF MARCH, ONE THOUSAND SEVEN HUNDRED AND EIGHTY-THREE; ALSO TO AMEND AN ORDINANCE ENTITLED "AN ORDINANCE TO EMPOWER COMMISSIONERS THEREIN NAMED TO CUT AND SINK DRAINS AND WATER-PASSAGES IN CACAW SWAMP, ST. PAUL'S PARISH," PASSED THE TWENTY-SIXTH DAY OF MARCH, ONE THOUSAND SEVEN HUNDRED AND EIGHTY-FOUR.

I. *Be it ordained*, by the Honorable the Senate and House of Representatives, in General Assembly met, and by the authority of the same, That John Mathews, Richard Wainwright, Thomas Odingsall Elliott, and Charles Drayton, Esq's., be, and they are hereby, appointed commissioners for, and they, or a majority of them, are hereby authorized and empowered to lay out, cut, sink, maintain and keep in repair, or to agree for the laying out, sinking, maintaining and keeping in repair, a free drain or passage to carry off the waters from Long Savannah, Wampee Savannah, and Jack Savannah, at such time and in such manner as the said commissioners, or a majority of them, shall think most convenient and advantageous to the persons interested therein.

II. *And be it further ordained* by the authority aforesaid, That the commissioners hereby appointed, or a majority of them, are hereby fully authorized and empowered to cut and sink a drain or water-passage for the purposes and in the manner aforesaid, from the plantation of Ralph Izard, sen., Esq., on Jack Savannah, through the plantation of Richard Wainwright, the estates of John Cattell and William Wragg, called Wampee Savannah,

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the plantations of John Mathews, the estate of Benjamin Cattell, Thomas Odingsall Elliott, and Charles Drayton, on Long Savannah, into such part of the north-east branch of Stono River as to them shall seem most expedient and necessary.

III. *And be it further ordained* by the authority aforesaid, That the commissioners hereby appointed, or a majority of them, shall be, and they are hereby, invested with all the privileges, powers and authorities, and shall proceed in the same manner, as the commissioners appointed by the Ordinance before mentioned, for sinking drains through Horse Savannah, and Jack Savannah, are, respectively, invested with.

IV. *Be it further ordained* by the authority aforesaid, That the commissioners appointed by an Ordinance passed the twenty-sixth day of March, one thousand seven hundred and eighty-four, entitled "An Ordinance to empower commissioners therein named to cut and sink drains and water-passages in Cacaw Swamp, St. Paul's Parish," or a majority of them, shall have power, and they are hereby authorized and required, in order to carry the said Ordinance fully into effect, to call forth and employ all the male slaves, from the age of sixteen to sixty years, residing or employed on any lands within the limits mentioned in the said Ordinance, to work on the said drains or passages, who are hereby obliged and required to work thereon. And in case the owner or owners of any such slaves shall neglect or refuse to send the same to work on the said drains or passages, at any time when required so to do by the said commissioners, or a majority of them, every such owner or owners shall forfeit and pay, for every neglect or refusal, a sum not exceeding three shillings sterling per day, for every such slave that he, she or they shall so neglect or refuse to send, to be recovered by warrant under the hands and seals of the said commissioners, or a majority of them, and to be applied towards defraying the expense of making the said drains or passages, and keeping the same in repair.

In the Senate House, the seventeenth day of March, in the year of our Lord one thousand seven hundred and eighty-five, and in the ninth year of the Independence of the United States of America.

JOHN LLOYD, *President of the Senate.*

JOHN FAUCHEREAUD GRIMKE,

Speaker of the House of Representatives.

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No. 1288. AN ORDINANCE FOR CLEARING EDISTO, WATeree, GREAT AND LITTLE PEEDEE RIVERS, BROAD AND SALTCATCHER RIVERS.


WHEREAS, the clearing and making navigable the rivers hereinafter mentioned, will be of great and general benefit :

I. *Be it therefore ordained*, by the Honorable the Senate and the House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That Thomas Ferguson, John Rutledge, Peter Youngblood, James Fair, Daniel Greene, Thomas Young, and Henry Felder, Esq's., shall be, and they are hereby appointed, commissioners for clearing and making navigable Edisto River, and the south and north forks thereof, from Boone's Landing to Chavis's Bluff, on the south fork, and to Black Creek, on the north fork thereof, or as near to the said places, respectively, as it shall appear to the said commissioners, or a majority of them, practicable and convenient to extend the navigation thereof. And that the said commissioners, or a majority of them, shall have power and authority to contract and agree with any person or persons for clearing and making navigable the said river, and the forks thereof, as aforesaid ; to receive subscriptions for carrying this business into effect, and to assess what further sum may be necessary for completing the same, on all lands, in proportion to their value, as assessed for the payment of the general tax, and which are situated within four miles of the river, from Boone's landing and Ford's Ferry, on the north side, and between Boone's Landing and Parker's Ferry, on the south side, and on all lands within six miles of the said river, or of either of the said forks, and on all male inhabitants from sixteen to fifty years of age, living within four miles of the river, from Boone's Landing and Ford's Ferry, on the north side, and between Boone's Landing and Parker's Ferry, on the south side, and on all such inhabitants from thence upwards, living within six miles of the said river, or of either of the said forks.

II. *And be it further ordained* by the authority aforesaid, That persons who have erected or shall erect mill dams across the said river, or either of the said forks thereof, shall make a lock or passage-way, of not less than twenty-four feet wide, and sixty feet long in the clear, so as to admit boats and rafts to pass safely and commodiously through the same, and keep open one of the mill-gates from every Saturday to every Sunday evening, from the middle of February until the first day of May.

III. *And be it further ordained* by the authority aforesaid, That the commissioners, or a majority of them, shall cause a ware-house, for the inspection of tobacco, to be erected at or near the place on each of the said forks to which the navigation shall be so extended, and also a wagon road to be laid out and made from each of the said places on the said forks, to the nearest high road in the upper part of this State, at the expense and labor of the inhabitants residing within six miles on each side of the roads so to be made.

IV. *And be it further ordained* by the authority aforesaid, That Benjamin Hicks, sen., George Hicks, Thomas Powe, William Pegues, Captain William M'Cotery, James Greir, Francis Greaves, Col. John Irvin, and Col. Hugh Giles, Henry Davis, sen., and Archibald Odam, shall be, and they are hereby appointed, commissioners to contract and agree with any person or persons for clearing and making navigable Great Peedee river, from Euhany to the North Carolina line, and to assess what further sum

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may be requisite to defray the expense of clearing and making navigable the said river, on all lands, in proportion to their value, as assessed for the payment of the general tax, and which are situated within six miles of the said river, from Euhany to the Warhee Bluff, and within ten miles of the said river, from the said bluff upwards, and on all male inhabitants from sixteen to fifty years of age, living within six miles of the said river, from Euhany to the Warhee Bluff, and within ten miles of the said river, from the said bluff, upwards.

V. *And be it further ordained* by the authority aforesaid, That the commissioners last above named, shall also be, and they are hereby appointed, commissioners to contract and agree with any person or persons for clearing Little Peedee River, from the mouth of it to Drowning Creek, and for clearing Drowning Creek, up to the North Carolina line, and assess the lands in proportion to their value, as assessed for the payment of the general tax, and which are situated within ten miles of the said river or creek, and the male inhabitants from sixteen to fifty years of age, living within ten miles of the said river or creek, for the expense of clearing the same; but that persons assessed for clearing Great Peedee, shall be exempted from assessment for clearing Little Peedee or Drowning Creek.

VI. *And be it further ordained* by the authority aforesaid, That such parts of the Ordinance entitled "An Ordinance to appoint commissioners for clearing Wall's Cut, Edisto, Wateree, Great and Little Peedee Rivers," as relate to Edisto River, and the forks thereof, or to Great or Little Pee-dee Rivers, shall be, and the same are hereby, repealed.

VII. *And be it further ordained* by the authority aforesaid, That after the said rivers and creeks shall have been cleared and made navigable, the said commissioners, or a majority of them, shall and may, from time to time, assess the inhabitants who are hereby made liable to the first assessment for clearing and making navigable the same, for the expense of keeping the said rivers and creeks always clear and navigable.

VIII. *And be it further ordained* by the authority aforesaid, That the commissioners hereby appointed, shall be, respectively, vested with the same powers for levying the assessments to be made by virtue of this Ordinance, as are vested in the commissioners of high roads, or justices of the county courts, for recovering fines or penalties from defaulters, for not working on such roads.

IX. *And be it further ordained* by the authority aforesaid, That in case any of the commissioners hereby appointed shall die, refuse to act, or depart this State, the remaining commissioners, respectively, shall, from time to time, choose a commissioner or commissioners in the room of him or them so dying, refusing to act, or departing this State.

X. *And be it further ordained* by the authority aforesaid, That John Lightwood, John Macteer, sen., William Ferguson, James Hamilton, Thos. Hamilton, and Daniel Desaussure, shall be, and they are hereby appointed, commissioners for clearing and making navigable Saltcatcher River, from the upper public landing, on the east side of said river, as high up as the aforesaid commissioners, or a majority of them, shall think proper. And the said commissioners are hereby authorized and empowered to receive subscriptions for carrying this business into effect; and the said commissioners, or a majority of them, are hereby further empowered to cause to be summoned all the male inhabitants from sixteen to fifty years of age, residing within five miles on both sides of the river, and westward from the public road leading across the ferry commonly called Saltcatcher Ferry, and

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thence upwards as high as the fork of Great and Little Saltcatcher ; which persons shall have ten days previous notice. And the persons above described shall be obliged to work on the said river ten days in every year, and no longer ; and in case of default, the said commissioners, or a majority of them, shall cause to be levied a fine, not exceeding two shillings and four pence per day, on all such male inhabitants neglecting to work, as aforesaid, which fines shall be recovered in like manner that fines are recovered by the commissioners of the public roads ; and all subscriptions and fines recovered by virtue of this Act, shall be appropriated towards clearing the said river.

XI. *And be it further ordained* by the authority aforesaid, That in case of the death, removal, or refusal to act, of any of the aforementioned commissioners, the others shall choose another or others to act in the stead of such commissioner removing, dying or refusing to act. And the said commissioners, or their successors, or a majority of them, shall, at all times after the said river is cleared, continue to keep the same navigable, at the expense of the inhabitants residing as aforesaid.

XII. *And be it further ordained* by the authority aforesaid, That the following persons, that is to say : Thomas Taylor and Daniel Tateman, from the confluence of Congaree and Wateree Rivers to George Ancrum's, on the Congaree River ; Richard Hampton and Minor Winn, from Ancrum's to Hancock's Ferry, on Broad River ; Adam Sommers and Zachariah Kirkland, from Hancock's Ferry to Boatner's Mill ; Anderson Thomas, Aremanus Liles, Reuben Sims, and Benjamin Johnston, from Boatner's Mill to the Fish-dam Ford ; and David Hopkins and Charles Sims, from the Fish-dam to Love's Ford ; and Edward Tilman and Thomas Wood, from Love's Ford to Smith's Ford, shall be, and they are hereby appointed, commissioners to contract and agree with proper persons for clearing and making navigable Broad River, from Friday's Ferry, as far upwards as it shall appear to them practicable to extend the navigation of the said river ; and to assess what sum may be necessary for that purpose, on all male inhabitants from sixteen to fifty years of age, within ten miles on each side of the said river.

XIII. *Be it ordained* by the authority aforesaid, That William Bull, Gen. Henderson, Anthony Simons, Isaac Harleston, Lewis Miles, Samuel Warren, and Edward Harleston, or any three of them, are empowered to undertake or contract with any person or persons for making a canal from the west branch of Cowper River to Cook's or Greenland's Swamp, or from the head of the east branch of the said river to Echaw or Santee Creek, to Santee River, at the following rates for boats or rafts as may pass through the said canal, viz : those of forty feet keel, seven feet beam, and upwards, five dollars each ; from thirty to forty feet keel, and five to seven feet beam, three dollars each ; and all boats under the length and width last mentioned, one dollar each, for the term of fifty years.

In the Senate House, the twenty-fourth day of March, in the year of our Lord one thousand seven hundred and eighty-five, and in the ninth year of the Independence of the United States of America.

JOHN LLOYD, *President of the Senate.*

JOHN FAUCHEREAUD GRIMKE,

Speaker of the House of Representatives.

AN ACT TO ESTABLISH A COMPANY FOR THE INLAND NAVIGATION FROM
Santee to Cooper River. No. 1316.

WHEREAS, John Rutledge, John Fauchereaud Grimke, Theodore Gaillard, George Haig, James Kennedy, ——— Graham, Thomas Sumter, Benjamin Waring, Thomas Walter, John Vanderhorst, James Mitchell, Ædanus Burke, Peter Tayssoux, Richard Champion, Aaron Loocock, ——— Pearson, John James, Francis Marion, John Dawson, Alexander Gillon, Samuel Midwood, John Richardson, Ephraim Mitchell, William Bull, Duncan McRa, Nathaniel Russell, Philip Gadsden, Peter Belin, Henry Laurens, jr., Edward Rutledge, Ralph Izard, John Budd, Richard Beatty, William Smith, Minor Winn, William Clarkson, William Hill, James Theus, Joseph Atkinson, Thomas Jones, and Daniel Bourdeaux, have, by their petition to the General Assembly, represented, that the opening an inland communication between the interior parts of this State and the city of Charleston, by means of a canal and locks, from Santee to Cooper river, will be of great utility; that the said petitioners have entered into an agreement, for establishing a company for opening and keeping up such communication; that a considerable number of shares are already subscribed, and the subscription will probably be soon completed, if the said undertaking should receive the sanction of the Legislature, and prayed to be incorporated by law, under the name or title of "The Company for the Inland Navigation from Santee to Cooper River;" that such a toll as may be reasonable and adequate, may be granted to them and their successors, in perpetuity, and that they may be vested with powers sufficient for carrying the said work fully into execution.

I. *Be it therefore enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the said proprietors, and such others as shall be admitted into the said company, shall be, and they are hereby, incorporated, by the name and style of "The Company for the Inland Navigation from Santee to Cooper River."

II. *And be it further enacted* by the authority aforesaid, That the said company, by the name and style aforesaid, shall and may sue and be sued, implead and be impleaded, in any court within this State; and that they may elect and appoint all necessary officers, and from time to time make such rules, regulations and by-laws, as they shall think proper; *provided*, the same shall not be repugnant to or inconsistent with any law of this State.

III. *And be it further enacted* by the authority aforesaid, That the said company shall and may cause a communication or inland navigation, by a canal and locks, to be made and kept up through such places as to them shall seem most fit and convenient, from Santee to Cooper river; and that they, and their successors for ever, shall and may fix and establish, and be entitled to take and receive by way of toll, for all goods and merchandize, carried on or through, and boats, vessels and rafts, passing on or through, the said canal, such sums or rates as the said company shall think proper to impose, not exceeding at any time, twenty-five pounds per cent per annum, on the money which they shall have expended in making and keeping in repair the said canal and locks, (to ascertain which, the books of the said company shall always be liable to the inspection of the Legislature;) that the said toll shall be payable in specie, according to its value as now established, and at no other rate, or in any other kind of money; and that the

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said company, or their agents, may stop any goods, vessels, boats or rafts, from passing on the said canal, until payment of the said toll.

IV. *And be it further enacted* by the authority aforesaid, That the said company shall have power to purchase, for themselves and their successors for ever, such lands as may be necessary for the purpose aforesaid, and as much land at each end of the canal, and on the opposite shores of Santee and Cooper rivers, as they may deem necessary, not exceeding one thousand acres; and where they and the owners of the said lands cannot agree for the same, to take the said lands on a valuation, to be made by a majority of five persons, to be appointed by the court of chancery or common pleas, to value the same; which land shall, on payment of the sum at which it shall be so valued, be vested in the said company for ever.

V. *And be it further enacted* by the authority aforesaid, That the said company shall be obliged to keep the said canal and locks, at all times, in good and sufficient order, condition and repair, on pain of being answerable for any damages occasioned by their wilful fault or neglect.


VI. *And be it further enacted* by the authority aforesaid, That the shares in the said company shall be forever exempted from any rate, tax, duty, assessment or imposition whatsoever; and that the said shares may be sold, transferred, assigned or bequeathed by the proprietors, respectively; and in case of their dying intestate, shall go as personal estate, according to the statute of distributions.

VII. *And be it further enacted* by the authority aforesaid, That if any person shall, wilfully or maliciously, cut, break down, damage or destroy any bank or other work to be erected or made for the purpose of the said navigation, such person shall be adjudged guilty of felony, and, on conviction, suffer death, without benefit of clergy. And if any person shall throw dirt, trees, logs or other rubbish, into the said canal, so as to prejudice the same, such person shall be answerable to the said company for the damages occasioned thereby.

VIII. *And be it further enacted* by the authority aforesaid, That the said company shall have power and authority to use any materials in the vicinity of the said canal, for making the same, or the said locks, or keeping the same in repair, paying a reasonable price for the same, which price shall be ascertained in like manner as the value of land which the company may take, as aforesaid, in case they and the owners of the said land cannot agree about the price thereof.

IX. *And be it further enacted* by the authority aforesaid, That all lands within seven miles of the said canal, which have not heretofore been granted to any person, shall be vested in the said company and their successors, forever; and that the said company shall and may collect and reserve water for the use of the said canal and locks, making satisfaction for the damages done thereby; the said damages to be ascertained in the manner above directed with respect to the value of land.

X. *And be it further enacted* by the authority aforesaid, That the said company shall have power, and they are hereby authorized, to establish a ferry over Santee River, at or near the place where the said canal shall join the said river, and shall be allowed to demand and receive the same rates of ferriage as may be legally demanded and received at Manigault's Ferry. And the said company shall also have power, and they are hereby authorized, to lay out a road, at their own expense, from the north side of Santee River, opposite to the canal, till it intersects the public road leading to the high hills of Santee.

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XI. *And be it further enacted* by the authority aforesaid, That if any person shall be sued for any matter or thing done in pursuance of this Act, he may plead the general issue and give this Act and the special matter in evidence; and on a verdict against the plaintiff, or a non-suit or a discontinuation, recover double costs.

XII. *And be it further enacted* by the authority aforesaid, That this Act shall be deemed and taken to be a public Act, judicially taken notice of as such, without special pleading, and liberally construed for carrying the purposes aforesaid into effect.

In the Senate House, the twenty-second day of March, in the year of our Lord one thousand seven hundred and eighty-six.

JOHN LLOYD, *President of the Senate.*

JOHN FAUCHEREAUD GRIMKE,

Speaker of the House of Representatives.

AN ORDINANCE FOR IMPROVING THE NAVIGATION OF GOOSE CREEK No. 1334.
IN CHARLESTON DISTRICT, AND FOR BETTER DRAINING THE LOW
LANDS IN ITS VICINITY.

WHEREAS, Alexander Fraser, Ralph Izard, Thomas Middleton, Gabriel Manigault, Alexander Garden, Isaac Parker, Ephraim Mitchell, Daniel Cannon, Charles Cotesworth Pinckney, Stephen Mazyck, jr., John Parker, John Deas, and James Mitchell, Esqrs., proprietors of lands in the parish of St. James Goose Creek, by their humble petition to the General Assembly, represented, that from the several windings and turnings of Goose Creek, the waters are kept up in such a manner, that the low lands cannot be sufficiently drained so as to be advantageously cultivated, and that the navigation is also thereby very much impeded; it appearing from an actual survey, that by a few short cuts through the marshes, thirteen miles and a quarter may be shortened to the distance of one thousand seven hundred and ninety yards; and therefore prayed that certain commissioners might by law be appointed to make the several cuts necessary for the above purposes.

I. *Be it therefore ordained*, by the Honorable the Senate and House of Representatives, in General Assembly met, and by the authority of the same, That the Honorable Alexander Fraser, Gabriel Manigault, Ephraim Mitchell, John Deas, Peter Smith, Joseph Manigault, and Aaron Loock, Esqrs., or any three or more of them, shall be, and they are hereby, authorized and empowered to set out, cut, sink, maintain and keep in repair, or to agree for the setting out, cutting, sinking, maintaining, and keeping in repair, such cuts and canals through the said marshes and other lands in the vicinity of Goose Creek, from the public bridge over the said creek, to its junction with Cooper river, as in their opinion will best tend to improve the navigation of the said creek, and to drain the low lands in its vicinity. *Provided always*, that a full and adequate satisfaction and compensation to all persons for the damages they may sustain from carrying this Ordinance into execution, by a just and fair valuation of seven disinterested freeholders of Charleston district, or a majority of them, three to be chosen by the


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party who may think himself aggrieved thereby, and three other disinterested freeholders of the same district, to be chosen by the commissioners hereinbefore mentioned, and the six so appointed, to choose the seventh, which seven are to be summoned by the commissioners appointed by this Act, in the same manner as is hereinafter prescribed for laying an assessment on the proprietors of lands benefited thereby. But in case either party should refuse or neglect to appoint the three freeholders aforesaid, then the commissioners herein appointed for carrying this Act into execution, shall, and they are hereby authorized and empowered to, appoint six freeholders as aforesaid, who being so appointed, shall choose a seventh; and the said commissioners so appointed, are hereby vested with the same powers and authority, as if the persons interested had appointed the three freeholders as aforesaid.

II. *And be it further ordained* by the authority aforesaid, That such cuts and canal shall be set out, cut, sunk, maintained and kept in repair, at the expense of the owners and proprietors of the land in the vicinity of Goose Creek, who shall be benefited by the said cuts and canals, and in proportion to the particular benefit they shall respectively receive thereby; and the said commissioners, or any three or more of them, shall and may, and they are hereby authorized and empowered, from time to time, to issue out their warrant or warrants, under their hands and seals, to seven freeholders of Charleston district, no wise interested in the said cuts or canals, to appear before the said commissioners, or any three or more of them, at a time and place to be specified in such warrant; which freeholders, or any five of them, upon their oaths, to be administered by any two of the said commissioners, which oath the said commissioners, or any two of them, are hereby empowered to administer, shall enquire which of the owners and proprietors of lands in the vicinity of Goose Creek will be benefited, and which will be damnified, by the said cuts or canals; and the said freeholders shall assess and ascertain what sum or sums of money shall be paid by the owners or proprietors of the said lands who shall be benefited by the said cuts or canals, (either by a sum in gross or by instalments,) for the setting out, cutting, sinking, maintaining and keeping in repair, the said cuts or canals, and compensating such owners and proprietors of lands as may be damnified thereby; and the said freeholders shall also assess and ascertain what sum or sums of money, either in the gross or by instalments, shall be paid out of the above assessment to such owners and proprietors of lands as may be damnified by the making the said cuts or canals, in proportion to the injury they shall receive thereby. *Provided always*, that notice of the time and place of making such enquiry and assessment, shall be given in the public gazettes of this State, and also given to or left at the usual or last places of abode of the persons interested, or the tenants or occupiers of the premises, respectively, at least ten days before such enquiry or assessment.

III. *And be it further ordained* by the authority aforesaid, That the said assessments and verdicts shall be set down in writing, under the hands and seals of the said freeholders, or any seven of them, and shall be delivered to the said commissioners, and shall be conclusive and binding, to all intents and purposes, on all concerned; and if any of the said persons shall neglect or refuse to pay their said assessments, it shall and may be lawful for the said commissioners, or any two or more of them, and they are hereby authorized and empowered, from time to time, to issue their warrant or warrants, under their hands and seals, to be delivered to

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any constable or constables of the said district, commanding him or them to levy the sum assessed, by distress and sale of the goods and chattels of the person so refusing or neglecting to pay his or her assessment; returning the overplus to the owners thereof, after such assessment and the charges of such distress and sale shall be deducted.

IV. *And be it further ordained* by the authority aforesaid, That this Ordinance shall be deemed, adjudged, and taken to be a public Ordinance, and shall be judicially taken notice of as such, by all judges, justices, and other persons whatsoever, without specially pleading the same.

In the Senate House, the twenty-second day of March, in the year of our Lord one thousand seven hundred and eighty-six.

JOHN LLOYD, *President of the Senate.*

JOHN FAUCHEREAUD GRIMKE,

Speaker of the House of Representatives.

AN ACT TO ESTABLISH A COMPANY FOR CLEARING AND IMPROVING THE No. 1349.
NAVIGATION OF EDISTO AND ASHLEY RIVERS, AND FOR FORMING A COMMUNICATION BY A CANAL AND LOCKS BETWEEN THE FORMER AND THE LATTER.

WHEREAS, William Moultrie, John Rutledge, Thomas Bee, James Lynch, Minor Winn, William Butler, John Purvis, William Anderson, John Budd, Leroy Hammond, Ephraim Mitchell, Nicholas Eveleigh, Wm. Saunders, Peter Freneau, David Olyphant, Wadsworth and Turpin, Chas. Goodwin, William Moore, Thomas Hall, James Milligan, Stephen Drayton, Christopher Gadsden, Jacob Read, Alexander Gillon, Andrew Pickens, Thomas Brandon, Patrick Colhoun, James Lincoln, and James Mayson, have, by their petition to the General Assembly, represented, that improving the communication between the north-western parts of this State, and the city of Charleston, by clearing and making navigable Edisto river, and the forks thereof, by making a canal from Edisto to Ashley river, by clearing the latter and making it navigable for proper boats and vessels, from the place where the canal will enter the said river, will be of great utility, both to the city and the country; that the said petitioners have entered into an agreement for establishing a company for the above purposes; that a considerable number of shares are already subscribed for, and the subscription will probably be soon completed, if the said undertaking should receive the sanction of the Legislature; that the said petitioners have therefore prayed to be incorporated by law, under the name of The Company for improving the navigation of Edisto and Ashley Rivers, and making a communication by a canal and locks, from one to the other of the said rivers; that such a toll as shall be reasonable and adequate, may be granted to them and their successors, in perpetuity, and that they may be vested with powers sufficient to carry the same fully into effect.

I. *Be it therefore enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the said petitioners, and such others as shall be admitted into the said company, shall be, and they are hereby, incorpo-

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rated, by the name and style of The Company for improving the navigation of Edisto and Ashley Rivers, and making a communication by a canal and locks from one to the other of the said rivers.

II. *And be it further enacted* by the authority aforesaid, That the said company, by the name and style aforesaid, shall and may sue and be sued, implead and be impleaded, in any court within this State; and that they may elect and appoint all necessary officers, and, from time to time, make such rules, regulations and by-laws as they shall think proper, for their own government. *Provided*, the same shall not be repugnant to, nor inconsistent with, any law of this State.

III. *And be it further enacted* by the authority aforesaid, That the said company shall and may cause a navigation to be made on the said Edisto and Ashley Rivers, and the forks of the former, by means of dams, canals and locks, or in such other manner as to them may seem most fit and convenient; and also, such communication or inland navigation, by a canal and locks to be made and kept up through such places as to them shall seem most fit and convenient, from Edisto to Ashley River. And that they and their successors, forever, shall and may fix and establish, and be entitled to take and receive, by way of toll, for all goods and merchandize carried on or through, and boats, vessels and rafts passing on or through, the said river or canal, such sum, sums or rates as the said company shall think proper to impose, not exceeding, at any time, twenty-five per cent. per annum on the money which they shall have expended in clearing, making and keeping in repair the navigation of the said river and canal, or on the money which they shall have expended in opening and keeping in repair the navigation of the River Edisto and its forks, provided the opening the canal by locks from one river to the other, should be judged by them impracticable, or too difficult to be undertaken; in order to ascertain which rates, the books of the said company shall always be liable to the inspection of the Legislature; that the said toll shall be payable in the current money of the State, and that the said company, or their agents, may stop any goods, vessels, boats or rafts, from passing on the said rivers or canal, until payment of the said toll.

IV. *And be it enacted* by the authority aforesaid, That the said company shall have power to purchase, for themselves and their successors, forever, such land as may be necessary for the purpose aforesaid, and as much land at each end of the canal, and at the opposite shores of Edisto and Ashley Rivers, as they may deem necessary, not exceeding one hundred acres; and where they and the owners of said lands cannot agree for the same, to take the said lands on a valuation to be made by a majority of five persons, to be appointed by the court of chancery or common pleas, to value the same; which land shall, on payment of the sum at which it shall be so valued, be vested in the said company forever.

V. *And be it further enacted* by the authority aforesaid, That the said company shall be obliged to keep the said navigation in good and sufficient order and condition, on pain of being answerable for any damages occasioned by their wilful default or neglect.

VI. *And be it further enacted* by the authority aforesaid, That the shares in the said company shall be forever exempted from any rate, tax, duty, assessment or imposition whatsoever; and that the said shares may be sold, transferred, assigned or bequeathed by the proprietors, respectively; and in case of their dying intestate, shall go as personal estates, according to the statute of distributions.

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VII. *And be it further enacted* by the authority aforesaid, That if any person shall, wilfully or maliciously, cut, break down, damage or destroy any bank or other work to be erected or made for the purpose of the said navigation, such person shall be adjudged guilty of felony, and, on conviction, shall be compelled to work in chains upon the said navigation, for any term of time not exceeding seven years. And if any person shall throw dirt, trees, logs or other rubbish, in the way, so as to prejudice the navigation and works aforesaid, such person shall be answerable to the said company, for treble the damages sustained thereby.

VIII. *And be it further enacted* by the authority aforesaid, That the said company shall have power and authority to use any materials in the vicinity of the works, for opening the navigation aforesaid, or keeping the same in repair paying a reasonable price therefor, which price shall be ascertained in like manner as the value of land which the company may take, as aforesaid, in case they and the owners of said land cannot agree about the price thereof.

IX. *And be it further enacted*, by the authority aforesaid, That all lands within two miles of the rivers and canal so to be made navigable, as aforesaid, which have not been heretofore granted to any person, the said company and their successors shall have a preferable right; *provided*, they survey and obtain a grant for the same within three years after the passing of this Act; and that the said company shall and may collect and reserve water for the use of their canals and locks, making satisfaction for the damage done thereby, the said damages to be ascertained in the manner above described with respect to the value of land.

X. *And be it further enacted* by the authority aforesaid, That the said company and their successors, from time to time, forever, shall be capable of purchasing or acquiring, holding and possessing, and of selling and disposing of, any negroes or other goods and chattels, as well as of any lands or real estates.

XI. *And be it further enacted* by the authority aforesaid, That if any person shall be sued for any matter or thing done in pursuance of this Act, he may plead the general issue, and give this Act and the special matter in evidence; and on a verdict against the plaintiff, or a non-suit or discontinuance, recover double costs.

XII. *And be it further enacted* by the authority aforesaid, That this Act shall be deemed and taken to be a public Act, and judicially taken notice of as such, without special pleading, and liberally construed for carrying the purposes aforesaid into effect.

In the Senate House, the twenty-seventh day of March, in the year of our Lord one thousand seven hundred and eighty-seven, and in the eleventh year of the Independence of the United States of America.

JOHN LLOYD, *President of the Senate.*

JOHN J. PRINGLE, *Speaker of the House of Representatives.*

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No. 1354. AN ORDINANCE FOR APPOINTING COMMISSIONERS FOR CLEANSING, CLEARING, AND MAKING NAVIGABLE CHECHESSEY CREEK, IN THE ROOM OF THOSE WHO ARE DEAD, WITH AUTHORITY AND POWERS CONTAINED IN THE ACT OF THE GENERAL ASSEMBLY, FOR CLEANSING, CLEARING, AND MAKING NAVIGABLE THE SAID CREEK, PASSED THE NINETEENTH OF MARCH, ONE THOUSAND SEVEN HUNDRED AND FIFTY-SIX.

WHEREAS, the commissioners appointed for clearing, cleansing, and making navigable Chechesey creek, in and by an Act of the General Assembly, passed the nineteenth day of March, in the year of our Lord one thousand seven hundred and fifty six, entitled "An Act for clearing and making navigable the head of Ashepoo river to the Fish Pond Bridge, and for cleansing, clearing, and making navigable the head of Chechesey creek, from the mouth of the same, to the public landing known by the name of Chechesey Landing," are dead, and a majority of the said commissioners failed to appoint others in the room of such as died, so as to keep up a succession, as is directed in and by the said Act. And *whereas*, there are now no commissioners for cleansing, clearing, and making navigable the said creek, and continuing to cleanse and keep clear and navigable the same, agreeable to the aim and scope of the said Act. And *whereas*, the said creek, by reason of trees that have fallen and lodged therein, and divers other obstructions, is rendered dangerous and difficult for the transportation to market of rice and other commodities of the proprietors of the adjacent plantations.

I. *Be it therefore ordained*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the Honorable John Lloyd, Esqr., Rawlins Lowndes, Benjamin Garden, William Clay Snips, Robert Pringle, and Wilson Glover, Esqrs., be, and they are hereby, nominated and appointed commissioners, for cleansing, clearing, and making navigable, and for continuing to cleanse, clear, and make navigable, the said creek, according to the Act above mentioned; and that they be, and are hereby, vested with and authorized to use and exercise the same powers and authorities given to the commissioners appointed by the Act aforesaid, to all intents and purposes whatsoever. And that in case any of the commissioners herein named should die, depart the State, or decline acting, and the majority of them should fail to choose and appoint others in their stead, as in and by the Act is prescribed, it shall and may be lawful for his Excellency, the Governor for the time being, to choose and appoint commissioners, and the persons so by him chosen and appointed, shall have equal powers and authorities as above mentioned.

In the Senate House, the twenty-seventh day of March, in the year of our Lord one thousand seven hundred and eighty-seven, and in the eleventh year of the Independence of the United States of America.

JOHN LLOYD, *President of the Senate.*

JOHN J. PRINGLE, *Speaker of the House of Representatives.*

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No. 1355.

AN ACT TO ESTABLISH A COMPANY FOR THE OPENING OF THE NAVIGATION OF THE CATAWBA AND WATeree RIVERS.

WHEREAS, John Rutledge, Thomas Sumter, William Hill, Daniel Bourdeaux, John Gaillard, Benjamin Waring, Joseph Atkinson, and Theodore Gaillard, for themselves and others, have, by their petition to the General Assembly, represented, that the opening of the navigation of the Catawba and Wateree rivers, from the North Carolina line to the Camden Ferry, by means of canals, dams and locks, and clearing the same of obstructions which are now in the way, will be of great public utility; that the said petitioners have entered into an agreement for establishing a company for opening the navigation of the said rivers, should they meet the sanction of the Legislature, and prayed to be incorporated by law, under the name and title of "The Company for opening the Navigation of the Catawba and Wateree Rivers;" and that they may be vested with such powers, privileges and immunities, for carrying the same into effect, as are granted to the incorporated company for the inland navigation between Santee and Cooper rivers.

I. *Be it therefore enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the said petitioners, and such others as shall be admitted into the said company, shall be, and they are hereby, incorporated, by the name and title of "The Company for opening the Navigation of the Catawba and Wateree Rivers."

II. *And be it further enacted* by the authority aforesaid, That the said company, by the name and style aforesaid, shall and may sue and be sued, implead and be impleaded, in any court within this State; and that they may elect and appoint all necessary officers, and from time to time make such rules, regulations and by-laws, as they shall think proper for their own government; *provided*, the same shall not be repugnant to or inconsistent with any laws of the State.

III. *And be it further enacted* by the authority aforesaid, That the said company shall and may cause a navigation to be made on the rivers aforesaid, by means of dams, canals and locks, or in such other manner as to them shall seem most fit and convenient, between Camden ferry and the North Carolina boundary line; and that they, and their successors for ever, shall and may fix and establish, and be entitled to take and receive by way of toll, for all goods and merchaudize carried on or through, and boats, vessels and rafts, passing on or through, the said rivers, within the limits aforesaid, such sums or rates as the said company shall think proper to impose, not exceeding at any time, twenty-five per cent per annum on the money which they shall have expended in opening and keeping in repair the said navigation, (to ascertain which, the books of the said company shall always be liable to the inspection of the Legislature;) that the said toll shall be payable in the current money of the State; and that the said company, or their agents, may stop any goods, vessels, boats or rafts from passing on the said rivers, until payment of the said toll.

IV. *And be it further enacted* by the authority aforesaid, That the said company shall have power to open and keep open, such road or roads on each side of the banks of the said rivers, as they may deem necessary for the use of the navigation aforesaid; and to purchase, for themselves and their successors for ever, all such lands as may be necessary; and where they and the owners of said land cannot agree for the same, to take the

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said lands on a valuation, to be made by a majority of five persons, to be appointed by the court of chancery or common pleas, to value the same; which land shall, on payment of the sum at which it shall be so valued, be vested in the said company for ever.

V. *And be it further enacted* by the authority aforesaid, That the said company shall be obliged to keep the said navigation in good and sufficient order and condition, on pain of being answerable for any damages occasioned by their wilful default or neglect.

VI. *And be it further enacted* by the authority aforesaid, That the shares in the said company shall be forever exempted from any rate, tax, duty, assessment or imposition whatsoever; and that the said shares may be sold, transferred, assigned or bequeathed by the proprietors, respectively; and in case of their dying intestate, shall go as personal estates, according to the statute of distributions.

VII. *And be it further enacted* by the authority aforesaid, That if any person shall, wilfully or maliciously, cut, break down, damage or destroy any bank or work to be erected or made for the purpose of the said navigation, such person shall be adjudged guilty of felony, and, on conviction, shall be compelled to work in chains upon the said navigation, for any term of time not exceeding seven years. And if any person shall throw dirt, trees, logs, or other rubbish, in the way, so as to prejudice the navigation and works aforesaid, such person shall be answerable to the said company for treble the damages sustained thereby.

VIII. *And be it further enacted* by the authority aforesaid, That the said company shall have power and authority to use any materials in the vicinity of the works, for opening the navigation aforesaid, or keeping the same in repair, paying a reasonable price therefor, which price shall be ascertained in like manner as the value of land which the company may take, as aforesaid, in case they and the owners of said land cannot agree about the price thereof.

IX. *And be it further enacted* by the authority aforesaid, That to all lands within two miles of the rivers so to be made navigable, as aforesaid, which have not been heretofore granted to any person, or reserved to the Catawba Indians, the said company and their successors shall have a preferable right, provided they survey and obtain a grant for the same, within three years from and after the passing of this Act; and that the said company shall and may collect and reserve water for the use of their canals and locks, making satisfaction for the damage done thereby, the said damages to be ascertained in the manner above described, with respect to the value of land.

X. *And be it further enacted* by the authority aforesaid, That the said company shall and may, and they are hereby authorized and empowered to, import into this State any number of negroes not exceeding three hundred, and that they shall have a credit for the duty on such negroes for five years from the time of importation.

XI. *And be it further enacted* by the authority aforesaid, That upon the said negroes being entered at the custom-house, the director or directors, agent or agents, of the said company so entering them, shall make oath that they are imported for the sole purpose of being employed on the works aforesaid, and that they shall give bond with security for the payment of the duties of the same, at the expiration of the time aforesaid.

XII. *And be it further enacted* by the authority aforesaid, That the said company and their successors, from time to time, forever, shall be capable

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of purchasing or acquiring, holding and possessing, and of selling and disposing of any negroes or other goods and chattles, as well as of any lands or real estates.

XIII. *And be it further enacted* by the authority aforesaid, That if any person shall be sued for any matter or thing done in pursuance of, this Act, he may plead the general issue and give this Act and the special matter in evidence; and on a verdict against the plaintiff, or a non-suit, or discontinuance, recover double costs.

XIV. *And be it further enacted* by the authority aforesaid, That this Act shall be deemed and taken to be a public Act, and judicially taken notice of as such, without special pleading, and liberally construed for carrying the purposes aforesaid into effect.

In the Senate House, the twenty-seventh day of March, in the year of our Lord one thousand seven hundred and eighty-seven, and in the eleventh year of the Independence of the United States of America.

JOHN LLOYD, *President of the Senate.*

JOHN J. PRINGLE, *Speaker of the House of Representatives.*

AN ORDINANCE TO EMPOWER COMMISSIONERS THEREIN NAMED, TO No. 1361.
CUT AND SINK DRAINS AND WATER PASSAGES IN THE SWAMPS AND SAVANNAHS FORMED BY WANNELL'S, OTHERWISE CALLED CUCKOLD'S CREEK, A BRANCH OF COMBAHEE RIVER.

WHEREAS, many valuable tracts of land lying on the swamps and savannahs formed by Wannell's or Cuckold's creek, cannot be seasonably cultivated, for want of sufficient drains thereon, to the great detriment of the proprietors of said land.

I. *Be it therefore ordained*, by the Honorable the Senate and House of Representatives, in General Assembly met, and by the authority of the same, That Thomas Heyward, jr., Thomas Radcliff, William Ferguson, Henry Hyrne, David Stevens, John Harrison, and William Day, be, and they are hereby, constituted and appointed commissioners, and they, or a majority of them, are hereby authorized and empowered, to lay out, cut, sink, maintain, and keep in repair, and to agree for laying out, sinking, maintaining and keeping in repair, a free drain or passage to carry the waters off the said swamps and savannahs, from the most convenient navigable place on the said Wannell's or Cuckold's creek, to be continued through the said swamps and savannahs, as far up Godfrey's savannah as the commissioners, or a majority of them, shall think necessary; then to divide in one or more drains, to be continued through or on the side or sides of the said savannah; and one or more drains, through or on the side or sides of Timmons's swamp, as far up in the said respective courses as the said commissioners shall think necessary for carrying the intention of this Ordinance into execution. *Provided always*, that a full and adequate satisfaction and compensation be made to all persons for the damages they may sustain from carrying this Ordinance into execution, by a fair and just valuation of seven disinterested freeholders of the parish of St. Bartholomew, or a majority of them, three to be chosen by the party who

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may think himself aggrieved thereby, and three other disinterested freeholders of the same parish, to be chosen by the commissioners hereinbefore mentioned, or a majority of them, and the six appointed, to choose the seventh; which seven are to be summoned by the commissioners appointed by this Ordinance, or by a majority of them, in the same manner as herein-after prescribed for laying an assessment on the proprietors of land benefited thereby. But in case either party should neglect or refuse to appoint the three freeholders aforesaid, then the commissioners, or a majority of them, herein appointed for carrying this Ordinance into execution, shall, and they are hereby authorized and empowered to, appoint six freeholders, as aforesaid, who being so appointed, shall choose a seventh; and the said commissioners so appointed, are hereby vested with the same powers and authorities, as if the persons interested had appointed the three freeholders aforesaid.

II. *And be it further ordained* by the authority aforesaid, That the said drains shall be laid out, made and kept in repair, at the proportionable expense of the owners and proprietors of the lands which shall be benefited by the said drains or passages, and by the labor of the slaves employed on any such lands; and the said commissioners, or any three or more of them, shall and may, and they are hereby authorized and empowered, from time to time, to issue out their warrant or warrants, under their hands and seals, to seven freeholders of St. Bartholomew's parish, no ways interested in the said drains or passages, to appear before the said commissioners, or any three or more of them, at a time and place to be specified in such warrant; which freeholders, or any five of them, upon their oaths to be administered by any two of the commissioners, which oath the said commissioners, or any two of them, are hereby empowered to administer, shall enquire which of the owners and proprietors of lands on said swamps and savannahs will be benefited, and which will be damnified, by the said drains or passages. And the said freeholders shall assess and ascertain what sum or sums of money shall be paid by the owners or proprietors of the said lands, who shall be benefited by the said drains or passages, either by a sum in gross, or by instalments, for the setting out, cutting, sinking, and keeping in repair the said drains or passages, and compensating such owners and proprietors as may be damnified thereby. And the said freeholders shall also assess and ascertain what sum or sums of money, either by gross, or by instalment, shall be paid out of the above assessment, to such owners and proprietor of lands as may be damnified by making the said drains or passages, in proportion to the injury they may receive thereby. *Provided always*, that notice of the time and place of making such inquiry and assessment, shall be given in the State Gazette of this State, and also, given to or left at the usual or last places of abode of the persons interested, or the tenants and occupiers of the premises respectively, at least ten days before such inquiry or assessment.

III. *And be it further ordained* by the authority aforesaid, That the said assessments and verdicts shall be set down in writing, under the hands and seals of the said freeholders, or any five of them, and shall be delivered to the said commissioners; and shall be conclusive and binding, to all intents and purposes, on all concerned; and if any of the said persons shall neglect or refuse to pay their said assessments, it shall and may be lawful for the said commissioners, or any two or more of them, and they are hereby authorized and empowered, from time to time, to issue out their warrant or warrants, under their hands and seals, to be delivered to any

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constable or constables of the said parish, commanding him or them to levy the sum assessed, by distress and sale of the goods and chattels of the person so refusing or neglecting to pay his or her assessment, returning the overplus to the owners thereof, after such assessment and the charges of such distress and sale shall be deducted. But in case it shall happen that the defaulter or defaulters shall have no goods on which levy can be made, then it may be lawful for the said commissioners, their successors, or the majority of them, to lease the aforesaid lands, or any part thereof, to such person or persons as may be willing to hire the same, for any term not exceeding four years, which leases are hereby declared to be valid, and of as full force and effect as if they had been made and executed by the proprietors of the said lands, respectively; any former or other lease to any other person notwithstanding.

IV. And that the said drains or passages may be more speedily finished, *Be it further ordained* by the authority aforesaid, That all the male slaves, from the age of sixteen to sixty years, residing or employed on any lands which may be benefited thereby, shall be, and they are hereby, obliged and required to work on the said drains or passages, at such time or times as the said commissioners, or a majority of them, shall appoint for that purpose. And in case the owner or owners of any such slaves shall neglect or refuse to send the same to work on the said drains or passages, at any time when required so to do by the said commissioners, or a majority of them, every such owner or owners shall forfeit and pay for every neglect or refusal, a sum not exceeding three shillings sterling per day, for every such slave that he, she or they shall so neglect or refuse to send; to be recovered by warrant, under the hands and seals of the said commissioners, or any two or more of them, and to be applied towards defraying the expense of making the said drains or passages, and keeping the same in repair.

V. *And be it further ordained* by the authority aforesaid, That the said commissioners, or a majority of them, shall have power and authority, and they are hereby fully empowered and authorized, to employ overseers to inspect the making of the said drains or passages, and keeping of the same in repair; and to do all such matters as they, the said commissioners, shall be of opinion will best tend to carry this ordinance into execution.

VI. *And be it further ordained* by the authority aforesaid, That if any person or persons whatsoever, by themselves, their servants or slaves, shall, by any ways or means, hinder or oppose the said commissioners, their successors, or such person or persons as they shall contract, agree with or appoint, their servants or workmen, from cutting, sinking, clearing, and making the said water passages, or from cutting down, felling, or making use of any timber, wood, earth or stones, in or near the said drains or water passages, or from mending or repairing the same as aforesaid, or shall stop either of the said drains, or prevent the free passage of water through the same, from the fifteenth day of September, until the fifteenth day of July, in each or any year, shall, for every such offence, forfeit the sum of one hundred pounds sterling, to be recovered by action of debt in any court of record in this State, and the monies so recovered to be disposed of for cutting, sinking, clearing, making, and keeping in repair, the said drains or water passages.

VII. *And be it further ordained* by the authority aforesaid, That if any of the said commissioners shall die, or depart this State, or shall refuse or

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neglect to act, it shall and may be lawful for the remainder of the commissioners, or the majority of them, to elect one or more commissioner or commissioners in their room, or in default of such election, for the Governor or Commander-in-chief for the time being to appoint, and the person or persons so elected or appointed shall be invested with, and he or they shall and may lawfully use, exercise and enjoy, the same powers and authorities, in as full and ample manner, to all intents and purposes whatsoever, as the commissioners hereby appointed can, or lawfully may, or ought to do.

VIII. *And be it further ordained* by the authority aforesaid, That if any person or persons whatsoever, shall be sued, prosecuted or molested, for any matter or thing done by virtue of this Ordinance, such person or persons may plead the general issue, and give this Ordinance and the special matter in evidence; and in case the plaintiff or plaintiffs shall suffer a discontinuance, or verdict or judgment shall pass against him or them, the defendant or defendants shall be allowed his and their double costs of suit.

In the Senate House, the twenty-seventh day of March, in the year of our Lord one thousand seven hundred and eighty-seven, and in the eleventh year of the Independence of the United States of America.

JOHN LLOYD, *President of the Senate.*

JOHN. J. PRINGLE, *Speaker of the House of Representatives.*

No. 1379. AN ORDINANCE FOR OPENING THE NAVIGATION OF LYNCH'S AND CLARK'S CREEKS, AND ALSO OF BLACK CREEK, AND APPOINTING COMMISSIONERS FOR SUPERINTENDING THE SAME.

WHEREAS, a great number of the inhabitants of Cheraw, Georgetown and Camden districts, have, by their joint petitions, set forth, that the interest of the State in general, and those districts in particular, would be much advanced by clearing and rendering navigable the creeks called Lynch's and Clark's Creeks, also Black Creek.

I. *Be it therefore ordained*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That all the male inhabitants, from the age of sixteen to fifty years, residing on the north side of Lynch's creek, within six miles of said creek, from the fork thereof down to Weatherspoon's Ferry, shall be liable to work and clear said creek, and keep open the navigation thereof, and shall not be liable to work on any public road whatever; and from the said ferry down to the mouth of Lynch's and Clark's creeks, the inhabitants, as above, shall be equally divided between said creeks and the river Peedee, and shall be liable as well to work on said creeks, and keep open the navigation of the same, as to work on such high roads as are there established by law, and as they are now obliged to work upon; and on the south side, all the inhabitants, as above, within five miles of said creeks, from the fork thereof to where Clark's creek empties itself in Peedee river, shall also be liable, as well to clear and keep open the navigation of the same, as to work on such high roads as they are already by law obliged to work upon.

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II. *And be it further ordained* by the authority aforesaid, That all the male inhabitants, from the age of sixteen to fifty years, residing on the south side of Black creek, within four miles thereof, to the mouth thereof; also, all such inhabitants, residing on the north side of Black creek, and within two miles thereof, from the head to the mouth of the same, shall be liable, as well to clear and keep open Black creek aforesaid, as to work on such high roads as they are already by law obliged to work upon. *Provided always nevertheless*, that nothing herein contained shall be construed so as to oblige any above mentioned inhabitant or inhabitants to work on the said creeks, or any high roads, for a greater number of days in the year than shall be employed by other citizens of this State in working on the high roads as directed by law.

III. *And be it further ordained* by the authority aforesaid, That James Marshall, John Dick, Elias Dubose, Roger Willson, Daniel Dubose, John Smith, Zachariah Nettles, Robert Ellison, John Day, Josiah Corkfield, Lewis Harold, James Brown, Austin Stone, John James, John Piggott, Robert Carter, James Snow, and William Goddard, be, and they are hereby, appointed commissioners for Lynch's creek; and Henry Kennon, John Peoples, James Williamson, Michael Russell, William Muldrough, Andrew Hunter, Albert Fort, John Powell, William Williams, John King, and Edward Cowper, be, and they are hereby, appointed commissioners for Black creek, for carrying into execution this Ordinance, and shall, respectively, have the same powers and authorities, and be under the same restrictions, in clearing said creeks, and in keeping open and improving the navigation thereof, as any commissioners of high roads and public paths in any part of this State are vested with or subject to; any law, usage or custom to the contrary in any wise notwithstanding.

IV. *And be it further ordained* by the authority aforesaid, That this Ordinance shall continue in force for the term of five years, and no longer.

In the Senate House, the twenty-eighth day of March, in the year of our Lord one thousand seven hundred and eighty-seven, and in the eleventh year of the Independence of the United States of America.

JOHN LLOYD, *President of the Senate.*

JOHN J. PRINGLE, *Speaker of the House of Representatives.*

A. D. 1788.

Acts relating to Rivers.

No. 1402. AN ORDINANCE TO APPOINT COMMISSIONERS FOR OPENING WALL'S CUT.

WHEREAS, an Ordinance to appoint commissioners for clearing Wall's Cut, and Edisto, Wateree, Great and Little Peedee Rivers, passed the twenty-sixth day of March, one thousand seven hundred and eighty-four, has not hitherto been carried into effect, so far as respects the clearing of Wall's Cut, for the want of sufficient funds, the grant of three hundred pounds on the treasury, as specified in the said ordinance, being found inadequate for the purpose, and the commissioners appointed have not taken upon themselves to act. And *whereas*, the clearing and opening the cut commonly called Wall's, hereinbefore mentioned, will be of great and general benefit:

I. *Be it therefore ordained* by the Honorable the Senate and House of Representatives, now met and sitting in General assembly, and by the authority of the same, That Richard Proctor, John Joiner, William Hort, John Leacraft, and Daniel Stevens, Esq's., shall be, and they are hereby appointed, commissioners for clearing and opening the cut commonly called Wall's Cut. And the said commissioners, or a majority of them, shall have full power and authority to contract and agree with any person or persons for making Wall's Cut wider and deeper, and for having the sides of the said cut secured by piles or stakes, in such manner as the said commissioners shall judge most proper and effectual for enabling large boats and rafts to pass through the same; and the said commissioners, or a majority of them, may draw orders on the treasury, in favor of the person or persons undertaking the work, for the sums of money, (that is to say three hundred pounds sterling,) granted in and by the above recited Ordinance; which orders, the commissioners of the treasury shall pay out of any monies in the treasury, (except such as are appropriated to the payment of the foreign debt;) any law to the contrary notwithstanding.

II. *And be it further ordained* by the authority aforesaid, That the said person or persons so completing said work, as aforesaid, their executors, administrators or assigns, shall, thereupon, be entitled to demand, receive and take, by way of toll, for every sloop or schooner, five shillings; for every pettiauger or large trading boat, two shillings and six pence; for every pleasure boat or rowing canoe, commonly called plantation boats, one shilling; and for every raft of lumber, five shillings; each and every time they shall pass through the said cut, for the term of fourteen years next after completing the work aforesaid; which toll, the collectors thereof shall be entitled to receive before the passage of any craft or rafts, as aforesaid, through the said cut.

III. *And be it further ordained* by the authority aforesaid, That the persons who may be entitled to such toll, shall, during the said term, keep the said cut in complete repair, and free from all obstructions and impediments to the navigation, and on default of so doing, shall thenceforward lose all benefit of this Ordinance.

IV. *And be it further ordained* by the authority aforesaid, That in case any of the commissioners by this Ordinance appointed, shall die, depart the State, or refuse to act, it shall and may be lawful for the other commissioners, or a majority of them, to nominate and appoint any other person or persons in the room of him or them so dying, departing the State or refusing to act;

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and the person or persons so chosen shall be invested with the same powers and authorities as the other commissioners hereby appointed.

In the Senate House, the twenty-seventh day of February, in the year of our Lord one thousand seven hundred and eighty-eight, and in the twelfth year of the Independence of the United States of America.

JOHN LLOYD, *President of the Senate.*

JOHN JULIUS PRINGLE, *Speaker of the House of Representatives.*

AN ORDINANCE FOR OPENING THE NAVIGATION OF A CREEK CALLED No. 1403.

THE STAVE-LANDING CREEK, AND TO DIG A CANAL FROM THE UPPER END OF THE SAID CREEK, TO THE MAIN ROAD LEADING FROM CHARLESTON TO CAMDEN.

WHEREAS, the company for opening the navigation of the Catawba and Wateree Rivers, have, by their petition to the General Assembly, represented that the opening of the navigation from the Wateree, up a creek called the Stave-Landing Creek, and to dig a canal from the upper end thereof to the main road leading from Charleston to Camden, by means of canals, dams and locks, and clearing the obstructions now in the way, will be of public utility :

I. *Be it therefore ordained* by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the said company shall and may cause a navigation to be made from the said river to the public road aforesaid, near Statesburg, or so far up as they may think necessary, by means of dams, canals and locks, or in such other manner as to them shall seem most fit and convenient. And the said company shall be entitled to the same toll and other advantages as are granted to them for opening the navigation of the Catawba and Wateree Rivers, by an Act passed the twenty-seventh day of March last, entitled "An Act for the opening of the navigation of the Catawba and Wateree Rivers," and shall have the same powers and authorities, and be under the same restrictions, as are therein mentioned.

In the Senate House, the twenty-seventh day of February, in the year of our Lord one thousand seven hundred and eighty-eight, and in the twelfth year of the Independence of the United States of America.

JOHN LLOYD, *President of the Senate.*

JOHN JULIUS PRINGLE, *Speaker of the House of Representatives.*

A. D. 1788.

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No. 1419. AN ACT TO ESTABLISH A COMPANY FOR OPENING THE NAVIGATION OF
BROAD AND PACOLET RIVERS.


WHEREAS, John Henderson, Francis Bremar, James Martin, James Green Hunt, John Martin, Thomas Brandon, James Knox, Joseph Palmer, Charles Miles, Charles Sims, James Powell, William Farr, Minor Winn, James Craig, Zachariah Bullock, John Hampton, David Hopkins, Thomas Baker, and John Winn, have petitioned the General Assembly, praying that they may be incorporated for the purpose of opening, by means of locks, dams or canals, or by any other ways or means, not destructive to the rights of any other citizen, the navigation of Broad and Pacolet Rivers, from Friday's Ferry, on the Congaree River, to the mouth of King's Creek, on Broad River, and Grindon's Shoals, on Pacolet River; and having represented it as a work of great public utility, pray to be invested with ample powers, privileges and immunities, for carrying their purpose into speedy effect, and that they may be known by the name or title of "The Company for opening the navigation of Broad and Pacolet Rivers."

I. *Be it therefore enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the said petitioners, and such others as shall be admitted into the said company, be, and they are hereby, incorporated, by the name or title of "The Company for opening the navigation of Broad and Pacolet Rivers."

II. *And be it further enacted* by the authority aforesaid, That the said company, by the name and style aforesaid, shall and may sue and be sued, implead and be impleaded, in any court within this State; and that they may frame any rules or regulations and make by-laws for their own government, and may appoint their own officers; *provided*, such rule, regulation, by-law or appointment, be not inconsistent with or repugnant to any law of this State.

III. *And be it further enacted* by the authority aforesaid, That the said company shall and may cause a navigation to be made on the rivers aforesaid, by means of locks, dams and canals, or such other mode as they may conceive most conducive to effectuating their purpose, from Friday's Ferry, on Congaree River, to the mouth of King's Creek, on Broad River, and Grindon's Shoals, on Pacolet River; and that they, and their successors for ever, shall and may fix, and shall be entitled to take and receive, by way of toll, for all goods and produce carried through, and all boats, vessels and craft, lumber or rafts, passing on or through the said river, within the limits aforesaid, such sums or rates as the said company may impose, not exceeding, at any time, twenty-five pounds per cent per annum on the money which they may have spent in opening and keeping in repair the said navigation, (to ascertain which, the books of the company shall always be liable to the inspection of the Legislature;) that the said toll shall be payable in current money of the State; and that the said company, or their agents, may stop any goods, boats, craft or rafts, from passing on the said rivers, until payment of the toll.

IV. *And be it further enacted* by the authority aforesaid, That the said company shall have power to open and keep open such road and roads, on each side of the banks of said rivers, as they may deem necessary for the use of the navigation aforesaid, and to purchase, for themselves and their successors for ever, all such lands as they may think convenient and necessary; and in cases where it is necessary that the company shall possess

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land for carrying on the work, which they cannot agree for with the tenant, it shall be taken at the valuation of five persons, appointed by the court of common pleas; which land, upon the payment of the sum at which it was valued, shall be recorded as the property of the company and their successors for ever.

V. *And be it further enacted* by the authority aforesaid, That from the time of the said navigation's being opened, the company shall be obliged to keep it in good and sufficient repair, order and condition, on pain of being answerable for any wilful neglect or default.

VI. *And be it further enacted* by the authority aforesaid, That the shares in said company, forever, shall be exempted from any rate, tax or duty whatsoever; and that the said shares may be sold, transferred, assigned or bequeathed by the proprietors, respectively; and in cases of intestacy, shall descend as personal estate, according to the statute of distribution.

VII. *And be it further enacted* by the authority aforesaid, That if any person shall, wilfully and maliciously, cut, break down, damage or destroy any bank or other work, erecting or erected and made for the purpose of said navigation, such person shall be adjudged guilty of felony, and, on conviction, shall be compelled to work in chains upon the said navigation, for any term of years not exceeding seven. And any person throwing dirt, trees, stones, or other kind of rubbish, so as to obstruct the navigation or prejudice the works, shall answer to the company for treble the damages sustained thereby.

VIII. *And be it further enacted* by the authority aforesaid, That the said company may use any materials in the vicinity of said navigation, the value of which shall be ascertained in like manner as the value of land which the company may take, as aforesaid, in case they and the owners cannot agree about the price thereof.

IX. *And be it further enacted* by the authority aforesaid, That to all lands within two miles of the rivers so to be navigable, as aforesaid, which have not been granted to any person heretofore, the said company and their successors, shall have an exclusive right, provided they survey and obtain a grant for the same, within three years from and after the passing of this Act. And the said company may collect and reserve water for the use of their canals and locks, making satisfaction for the damages done thereby; the said damages to be ascertained in the manner above described with respect to the value of land.

X. *And be it further enacted* by the authority aforesaid, That the said company and their successors, from time to time, for ever, shall be capable of purchasing or acquiring, holding and possessing, and of selling and disposing of, any negroes or other goods and chattels, as well as of any lands or real estates.

XI. *And be it further enacted* by the authority aforesaid, That if any person shall be sued for any thing transacted in consequence of this Act, he may plead the general issue and give this Act in evidence.

In the Senate House, the twenty-ninth day of February, in the year of our Lord one thousand seven hundred and eighty-eight, and in the twelfth year of the Independence of the United States of America.

JOHN LLOYD, *President of the Senate.*

JOHN JULIUS PRINGLE, *Speaker of the House of Representatives.*

A. D. 1790.

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No. 1485. AN ORDINANCE TO OBLIGE ALL THE MALE INHABITANTS, FROM THE AGE OF SIXTEEN TO FIFTY YEARS, RESIDING WITHIN TWENTY MILES OF BLACK MINGO FERRY, (WHO USE BLACK MINGO CREEK TO SEND THEIR CROPS TO MARKET,) TO WORK ON AND LAY OPEN THE NAVIGATION OF BLACK MINGO CREEK, FROM ITS CONFLUENCE WITH BLACK RIVER TO BLACK MINGO BRIDGE, AND FOR APPOINTING COMMISSIONERS FOR CARRYING THE SAME INTO EXECUTION.

WHEREAS, many of the inhabitants residing in the neighborhood of Black Mingo, in the district of Georgetown, have labored under many and great inconveniences, by reason of the said creek being very much obstructed by the many logs and trees fallen therein, in different places; and owing to the said obstructions, the vessels which use the same asking exorbitant freights for carrying said inhabitants's produce to market.

I. *Be it therefore ordained*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That all the male inhabitants, from the age of sixteen to fifty years, residing within twenty miles of Black Mingo Ferry, who make use of the said creek to send their crops to market, (the commissioners hereafter named to be judges thereof,) shall be liable to work on and clear the said creek from obstructions, and to open the navigation thereof, from its confluence with Black River, to Black Mingo Bridge; but shall not be compelled to work on the same for a longer time than six days in every year.

II. *And be it further ordained* by the authority aforesaid, That Capt. Anthony White, Patrick Dollard, Esq., and James Zuill, of Black Mingo Ferry, be, and they are hereby, appointed commissioners for carrying this Ordinance into execution; and that the said commissioners, or a majority of them, shall have the same powers and authority for opening the said navigation, as any commissioners for high roads and public paths in any part of this State are vested with; any law, usage or custom to the contrary notwithstanding.

4 In the Senate House, the twentieth day of March, in the year of our Lord one thousand seven hundred and ninety, and in the fourteenth year of the Independence of the United States of America.

D. DE SAUSSURE, *President of the Senate.*

JACOB READ, *Speaker of the House of Representatives.*

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A. D. 1791.

AN ACT FOR OPENING AND IMPROVING THE NAVIGATION OF GREAT PEEDEE, WATEREE, CONGAREE, BROAD RIVER, SAVANNAH, KEOWE, TUGALOO AND BLACK RIVERS, LYNCH'S, BLACK, JEFFRIE'S AND CAT-FISH CREEKS.

No. 1505.

I. *Be it enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That Tristram Thomas, Morgan Brown, William Pegues, Esq's., Barron Paelnit, Alexander M'Intosh, Moses Pearson, William Strother, Nathaniel Sanders, Samuel Benton, Thomas Evans, and Richard Brockington, be, and are hereby appointed, commissioners to open and improve the navigation of Great Peedee River, from the North Carolina line down to the mouth of Black Creek, and shall be called and known by the name of the Upper Board of Commissioners on Peedee; and that all the male inhabitants, between the ages of sixteen and fifty years, living within six miles of said river, shall be, and they are hereby made, liable to work on the same, under the direction of said commissioners, for the space of six days in a year, if required, and no more.

II. *And be it further enacted* by the authority aforesaid, That William Wilson, John M'Kee, Moses Murfee, Gavin Witherspoon, John Witherspoon, John Dozer, John Porter, Shadrach Simons, John Gregg, Thomas Benton, Abel Goodman, and James Greer, be, and they are hereby appointed, commissioners to open and improve the navigation of Great Peedee River, from the mouth of Black Creek down to Euhaney, and shall be called and known by the name of the Lower Board of Commissioners on Peedee; and that all the male inhabitants, between the ages of sixteen and fifty years, living within six miles of said river, shall be, and they are hereby made, liable to work on the same, under the direction of said commissioners, except such persons within six miles, as aforesaid, who may live nearer to Black Creek, Jeffrie's Creek, and Lynch's Creek, than to the said River; which persons so excepted shall be, and they are hereby made, liable to work on said creeks, respectively.

III. *And be it further enacted* by the authority aforesaid, That Lata-more Edmonds, William M'Muldrov, Andrew Hunter, Henry Cannon, John King, John Sanders, and Albert Fort, are hereby appointed commissioners for improving the navigation of Black Creek, from the mouth of said creek as far up as the fork; and that all the male inhabitants, living within four miles on each side of the said creek, between the ages of sixteen and fifty years, are hereby made liable to work on the said creek, not more than six days in any one year.

IV. *Be it further enacted* by the authority aforesaid, That Needham Lee, Daniel Dubose, John Castles, John Huggins, James Marshal, Charles Evans, George Evans, John Piget, Elias Dubose, Absalom Sauls, Andrew Dubose, Elisha Mayce, James Rochel, and Jesse Minton, Esq's., be, and they are hereby appointed, commissioners to open and improve the navigation of Lynch's Creek, from the plantation of Captain Charles Evans, down to the Effingham Mills, and shall be called and known by the name of the Upper Board of Commissioners on Lynch's Creek; and all the male inhabitants, between the ages of sixteen and fifty years, living within five miles of said creek, from four miles above Captain Charles Evans's down to the mills aforesaid, shall be, and they are hereby made, liable to work on said creek, under the direction of said commissioners, for the space of six days in a year, if required, and no more.

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V. *And be it further enacted* by the authority aforesaid, That William Goddard, Austin Stone, John Simmons, Lewis Howell, John Smith, Robert Ellison, John James, James Brown, Josiah Corkfield, Zachariah Cato, and Zachariah Nettles, Esq's., be, and they are hereby appointed, commissioners to open and improve the navigation of Lynch's Creek, from the Effingham Mills to the mouth thereof, and shall be known by the name of the Lower Board of Commissioners on Lynch's Creek; and all the male inhabitants between sixteen and fifty years of age, living within five miles of said creek, and not within six miles of Great Peedee, shall be, and they are hereby made, liable to work on said creek, under the direction of said commissioners, for the space of six days in a year, if required, and no more.

VI. *And be it further enacted* by the authority aforesaid, That Whan Moore, Joseph Lloyd, Isaac Ross, jun., Douglass Stark, Samuel Boykin, John Chesnut, William Whitaker, Duncan M'Ra, John Kershaw, and Zachariah Cantey, Esq's., be, and they are hereby appointed, commissioners to open and improve the navigation of the Wateree river, from the falls, near Mr. Chesnut's Ferry, down to the confluence of Wateree and Congaree, and shall be called and known by the name of the Wateree Board of Commissioners; and all the male inhabitants between sixteen and fifty years of age, living within six miles of said river, except such that live nearer to the Congaree than to the Wateree river, shall be, and they are hereby made, liable to work on said Wateree river, under the direction of said commissioners, for the space of six days in a year, if required, and no more.

VII. *And be it further enacted* by the authority aforesaid, That Richard Hampton, James Taylor, Robert Lithgow, Joseph Culpepper, William Howell, jun., John James Haig, John Threewits, Joel Adams, William Russell Thomson, Richard Brown, Alexander Blair, and John ———, Esq's., be, and they are hereby appointed, commissioners to open and improve the navigation of Congaree River, from the confluence of Broad and Saluda Rivers, to the confluence of Congaree and Wateree Rivers, and shall be called and known by the name of the Congaree Board of Commissioners; and all the male inhabitants between the age of sixteen and fifty years, living within six miles of said river, and who do not live nearer to Wateree than Congaree River, shall be, and they are hereby made, liable to work on said Congaree River, for the space of six days in a year, if required, and no more.

VIII. *And be it enacted* by the authority aforesaid, That Andrew Pickens, Robert Anderson, Benjamin Claveland, Nicholas ———, and Moses ———, Esq's., be, and they are hereby appointed, commissioners to open and improve the navigation of the River Keowee, from Fort Prince George, on said river, to the confluence of Tugoloo and Keowee, and on Tugoloo, from Chawgee creek to the confluence of said river and Keowee, and from thence down Savannah river to the old boundary line, and shall be called and known by the name of the Pendleton County Board of commissioners; and that Richard Barksdale, Robert Allen, Thomas Winn, John Hamilton, and Peter ———, Esq's., be, and they are hereby appointed, commissioners for that part of Savannah river between the old boundary line and the mouth of Long-Cane creek, and shall be called the Abbeville County Board of Commissioners; and that Hugh Middleton, Robert Ware, LeRoy Hammond, Thomas Key, and Dury Pace, Esq's., be, and they are hereby appointed, commissioners for that part of Savannah river between

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the mouth of Long-Cane creek and Col. Hampton's Bridge, opposite to Augusta, and shall be called the Edgefield County Board of Commissioners; and that all male inhabitants, between the age of sixteen and fifty years, living within six miles of the said rivers, shall be obliged to work on the same, not exceeding the space of ten days in one year, and no more, and shall not be compellable to work on any or either of said rivers out of their respective districts. And the said three last mentioned boards of commissioners shall constitute one board for the purpose of receiving and appropriating all such sums of money as shall be subscribed or given for the improvement of the navigation of the said three rivers; and all monies so received shall be applied at the discretion of a majority of the said board. But in all other cases they shall be considered as separate boards.

IX. *And be it further enacted* by the authority aforesaid, That Benjamin Davis, Minor Henry Davis, jun., Joshua Avent, and William Keffe, be, and they are hereby appointed, commissioners to open and improve the navigation of Catfish creek, and shall be called and known by the name of the Board of Commissioners of Catfish creek; and that all the male inhabitants, between the ages of sixteen and fifty years, residing within three miles of the said creek, from the mouth of the said creek up to the causeway near Thomas Godbolt's plantation, shall be, and they are hereby made, liable to work on the said creek, under the direction of the said commissioners; *provided*, that no person be made liable to work thereon more than six days in one year.

X. *And be it further enacted* by the authority aforesaid, That Francis Green, William Lister, John Murray, William Moore, William Healthly, Robert Witherspoon, Robert Irvin, John Greyham, and John Robinson, be, and they are hereby appointed, commissioners to open and improve the navigation of Black River, from Benbow's ferry down to North's ferry, on said river, and shall be called and known by the name of the Black River Board of Commissioners; and all the male inhabitants, between the ages of sixteen and fifty years, living within three miles of said river, shall, and they are hereby made liable to, work on the same, under the direction of said commissioners, six days in a year, if required, and no more.

XI. *Be it enacted* by the authority aforesaid, That the said respective boards of commissioners shall have full power and authority, when they shall think necessary, to summon all the said male inhabitants, giving two days previous notice, to work on said rivers or creeks in their respective districts; and if any person or persons shall refuse or neglect to go or send their male slaves, when summoned by the commissioners aforesaid, or by any person by them appointed for that purpose, every such person shall forfeit and pay a sum not exceeding two dollars per day, at the discretion of the commissioners, for himself, and one dollar per day for every male slave so neglected or refused to be sent, to be recovered by immediate warrant of distress, under the hands of any three or more of the commissioners, against any of the goods and chattels of the defaulters, which, after ten days public notice, shall be sold for the purpose of paying the fine aforesaid, and charges accruing thereon; and the overplus, if any, returned to such defaulter. And all fines so recovered shall be by the commissioners appropriated to the improvement of the navigation of the respective rivers or creeks where the defaulter is made liable to work.

XII. *And be it further enacted* by the authority aforesaid, That the several and respective boards of commissioners herein before appointed, shall have full power and authority to divide their respective districts into smaller

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ones, and direct what hands shall work therein. They shall also appoint overseers of said small districts, and the overseers so appointed are hereby empowered moderately to correct all such male slaves as shall refuse or neglect to do his work when present; the overseer shall return his name to the commissioners, who shall fine him, for the first offence, a sum not exceeding two dollars, and for the second offence, a sum not exceeding ten dollars, at the discretion of the commissioners, to be recovered and appropriated as other fines herein before mentioned. And if any of the overseers to be appointed by virtue of this Act, shall refuse or neglect to serve and do his duty, agreeable to law and the direction of the commissioners, he shall forfeit and pay a sum not exceeding ten pounds, at discretion of the commissioners, to be recovered and appropriated as herein before mentioned. *Provided*, that no person shall be compelled to serve as an overseer more than one year in any term of three years.

XIII. *Be it further enacted* by the authority aforesaid, That the several and respective boards herein before appointed, shall be, and they are hereby, fully authorized and empowered to take and make use of any boats, flats or canoes, within their respective districts, for the purpose of improving the navigation of their respective rivers or creeks, (except such as are kept for the use of any public ferry,) and shall return the same to the place where taken from, or to the landings of the proper owners. *Provided*, that no boat, flat or canoe shall be detained from the owner more than ten days in any one year.

XIV. *And be it further enacted* by the authority aforesaid, That the several and respective boards of commissioners, according to their several divisions, shall have full power and authority to cut down and make use of any timber wood, earth or stone, in or near their respective rivers or creeks, for the purpose of improving the navigation of the same, as to them shall seem necessary. And if any person or persons shall stop up, or in any wise injure or impede the navigation of said rivers or creeks, by felling trees, rolling of logs, rocks, &c., into them, such person or persons so offending shall forfeit and pay a sum not exceeding five pounds for every such offence, at the discretion of the commissioners, and shall also be compelled to remove all such obstructions by him or them occasioned.

XV. *And be it further enacted* by the authority aforesaid, That the several and respective boards of commissioners shall be, and they are hereby, fully authorized and required, at all such places as may think it necessary, to fix and establish buoys or other way marks, directing boats or other vessels to the proper channel; and also to erect and establish such posts or beams as they may think necessary, for assisting boats and other craft in warping over difficult places; and if any person or persons whatever shall wilfully remove or destroy any buoys, way-marks, posts or beams so established, such person or persons shall forfeit or pay for every such offence a sum not exceeding five pounds, at the discretion of the commissioners, to be recovered and appropriated as hereinbefore directed, and shall also be liable to make good all damages by him or them so done.

XVI. *And be it further enacted* by the authority aforesaid, That if any vacancy shall happen in any of the boards of commissioners hereinbefore appointed, the remaining commissioners of the board having such vacancy, or a majority of them, at their next meeting, shall choose some fit person to fill up such vacancy, and the person so chosen is hereby declared to be a commissioner, and vested with all the powers and authorities by this Act given to any of the commissioners hereinbefore named.

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XVII. *And be it further enacted* by the authority aforesaid, That the several and respective boards of commissioners hereinbefore appointed, and their successors, or a majority of them, respectively, shall have full power and authority to receive subscriptions and donations that may be given for the improvement of the navigation of their respective rivers or creeks, and shall appropriate all such monies to that purpose; and said boards, respectively, are hereby fully authorized and empowered to sue for and recover all such monies as shall at any time be subscribed, and all forfeitures, before any justice of the peace, or court having jurisdiction of the same.

XVIII. *And be it further enacted* by the authority aforesaid, That if any person or persons whatsoever, shall be sued, prosecuted or molested, for any matter or thing done by virtue of this Act, such person or persons may plead the general issue and give this Act and the special matter in evidence; and in case the plaintiff or plaintiffs shall suffer a discontinuance, or verdict or judgment shall pass against him or them, the defendant or defendants shall be allowed their double costs of suit.

In the Senate House, the nineteenth day of February, in the year of our Lord one thousand seven hundred and ninety-one, and in the fifteenth year of the Independence of the United States of America.

DAVID RAMSAY, *President of the Senate.*

JACOB READ, *Speaker of the House of Representatives.*

AN ACT FOR OPENING THE NAVIGATION OF PINETREE CREEK, FROM THE MOUTH OF SAID CREEK TO THE FORKS THEREOF NEAR CAMDEN. No. 1596.

WHEREAS, sundry inhabitants of the town of Camden, and other parts of Camden district contiguous thereto, have, by their petition to the Legislature, represented, that the opening of the navigation of Pinetree Creek, from the Wateree river as high up the said creek as the forks thereof, by means of dams, canals, locks, and clearing the obstructions in the said creek, would be of great advantage and public utility.

I. *Be it therefore enacted*, by the Honorable the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the proprietors of the lands whereon Col. Kershaw's lower mills on the said creek were formerly erected, shall and may cause the said creek to be made navigable from the mouth thereof to the place where Merchant Mills are now erecting, by the present proprietor, (Thomas Brown,) by means of dams, locks, canals, and clearing the obstructions now in the way, or in such other manner as shall seem to them most fit and convenient.

II. *And be it further enacted* by the authority aforesaid, That the proprietors of the mills erected, and the proprietors of the mills which may be erected, upon both branches of the said creek, above the forks thereof, or either of them, shall and may open and continue the navigation of the said creek, from the lower mills, as high up the creek as to the forks thereof, by means of canals, dams, locks, and clearing the obstructions in the said creek, or in such other manner as to them shall seem most fit and conve-

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nient; *provided*, that no injury be done thereby, either to the mills that are or may be erected below the said forks.

In the Senate House, the seventeenth day of December, in the year of our Lord one thousand seven hundred and ninety-four, and in the nineteenth year of the Independence of the United States of America.

DAVID RAMSAY, *President of the Senate.*

JACOB READ, *Speaker of the House of Representatives.*

No. 1603. AN ACT TO ENABLE THE COMMISSIONERS THEREIN APPOINTED, TO CLEAR OUT AND REMOVE THE OBSTRUCTIONS IN THAT BRANCH OF ASHEPOO RIVER WHICH IS CALLED THE HORSE SHOE CREEK, AND TO CUT OR SINK AND KEEP IN REPAIR, A DRAIN OR CANAL, FROM THE HEAD OF THE SAID CREEK, UP THE SWAMP CALLED THE ROUND O SWAMP, TO THE JUNCTION OF THE TWO BRANCHES OF THE SAID SWAMP, AT THE PLANTATION KNOWN BY THE NAME OF GILKICKER'S; FOR OPENING LOWDER'S LAKE; AND FOR OTHER PURPOSES THEREIN MENTIONED.

I. *Be it enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That that branch of Ashepoo river which is called the Horse Shoe creek, shall be well cleared out, and all obstructions therein shall be removed, and the same shall always be kept clear; and that a drain or canal, from the head of the said creek up the swamp called the Round O Swamp, to the junction of the two branches of the said swamp, at the plantation called Gilkicker's, shall be cut, sunk and made, in the manner and by the persons hereinafter appointed for that purpose.

II. *And be it further enacted* by the authority aforesaid, That Col. William Fishburn, Dr. James Perry, John Logan, and John Postell, Esqrs. and Dr. James Clitherall, be, and they are hereby, appointed commissioners for the purposes in this Act mentioned; and that upon the death or resignation of either of them, or any commissioner hereafter to be appointed, the vacancy shall be filled up by the appointment of the remaining commissioners, and he shall have the same power and authority as the commissioners first appointed; and that any three of the said commissioners shall be a board or quorum to do any business respecting the said creek and canal or drain, arising out of this Act; and all acts, orders and resolutions, passed, carried or done, by the votes of a majority of the commissioners present at any meeting, shall be valid, legal and effectual, to all intents and purposes.

III. *And be it further enacted* by the authority aforesaid, That if the commissioners appointed as aforesaid, shall fail to fill up the vacancy within twelve months from the time when they shall happen, each and every of the commissioners so failing, shall forfeit and pay the sum of fifty pounds, to any one of the proprietors of land on the said swamp, who shall sue for and prove the same in the circuit court of the district.

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IV. *And be it further enacted* by the authority aforesaid, That the said commissioners shall hold their first meeting at such time and place as a majority of them may agree upon for that purpose, and that at that, and every meeting afterwards to be held, they shall adjourn to some certain time and place, by them to be then appointed; and that they shall meet twice or oftener in every year; the chairman of the board, or any three commissioners, shall, however, have power to call extraordinary meetings.

V. *And be it further enacted* by the authority aforesaid, That if any commissioner shall fail or neglect to attend any stated meeting, or any extraordinary meeting, after having had two days notice of such meeting, he shall forfeit the sum of ten pounds; and if, while the laborers are actually at work, he fail or neglect to attend at the place for that purpose appointed, for every day's absence he shall forfeit the sum of two pounds; unless in either of these cases he shall offer, at the next stated meeting, such an excuse as a majority of the board shall determine to be good and sufficient.

VI. *And be it further enacted* by the authority aforesaid, That the said board shall have power to employ a surveyor to lay out the canal aforesaid, in as ample a manner as they shall judge necessary or proper; and that the expenses thereof shall be paid by an assessment, by them to be laid, rated and levied upon every slave hereinafter declared to be liable to work on the said canal; that they shall have full authority to have the said canal or drain made as deep, and to have any such banks made thereto, as they may deem necessary and proper; and to have one or more locks made in the said canal, and to build new bridges over the said creek and canal, and to enlarge or alter any bridge now erected, or hereafter to be erected, over the said creek or canal, in such manner as they may think advisable or requisite; and that they shall be empowered to cut down or use for the said creek or canal, any trees or timber, or any earth or stone, that may be found on or near the course of the said creek or canal; any law, usage or custom to the contrary thereof in any wise notwithstanding.

VII. *And be it further enacted* by the authority aforesaid, That every person owning or possessing any slave or slaves, residing upon the plantations in the said swamp, shall, upon oath, return to the said commissioners, whenever by them required, the name of every slave, male or female, from the age of sixteen to fifty years, both included, whom he or she may so own or possess as aforesaid; and if any such person shall fail or neglect to make such return within the time for that purpose to be prescribed by the said board, he or she shall forfeit the sum of three pounds sterling, for every slave not returned as is above directed; to be recovered, levied and raised, by warrant under the hand and seal of the chairman of the said board, or any three of the commissioners, directed to such person or persons as he or they may think fit to name for that purpose.

VIII. *And be it further enacted* by the authority aforesaid, That every slave falling within the description in the next preceding clause contained, shall be liable to work on the said creek and canal; and whenever the said commissioners shall think it proper to call out the said slaves upon the said work, they shall give at least two days previous notice thereof, to their owners, if they then be upon the plantations, and if not, to the managers or overseers upon the said plantations; and if there should be no owner, manager or overseer, upon either of the said plantations, then to the driver belonging thereto; and after having given such notice, every such slave shall, at the time appointed by the board, repair to the place for that purpose appointed,

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each male carrying with him a spade and an axe, and each female, a hoe ; and if any such slave shall fail or neglect to appear at the time and place so appointed, with the implements aforesaid, the owner thereof shall forfeit one dollar for every day during which such slave shall be absent ; to be levied, recovered and raised, in the same manner as is prescribed in the seventh clause of this Act for the recovery of the penalty therein mentioned ; unless such owner shall, at the next regular or stated meeting of the board, offer such excuse as they may think sufficient. *Provided always*, that the said commissioners shall not compel any slave to work upon the said creek or canal longer than twelve days in the course of any one year.

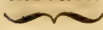
IX. *And be it further enacted* by the authority aforesaid, That the said board shall always have power to summon, by a previous notice of at least two days, all the white inhabitants living upon the plantations above mentioned, who are liable to do patroll duty, to appear well armed and accoutred, at the time and place where the slaves are to be employed, and upon being so summoned, every such white inhabitant shall be bound to attend accordingly, and to execute all orders given to him by either of the commissioners, for the superintendence and management of the said slaves, and to preserve among them peace and good order ; and if either of the said white inhabitants shall fail or neglect to attend as is above directed, or to execute the orders given him by either of the said commissioners, he shall forfeit two dollars for such neglect or disobedience of orders, and for each day's default ; to be levied, raised and recovered, in the same manner as the penalty in the seventh clause of this Act is directed to be recovered ; unless at the next regular or stated meeting of the board, he shall offer a sufficient excuse to them.

X. *And be it further enacted* by the authority aforesaid, That if any person shall oppose, hinder or interrupt either of the commissioners aforesaid, in the exercise of his duty, or shall in any manner obstruct the passage or current of the water in the said creek or canal, and shall fail or neglect completely to remove such obstruction within twenty-four hours after being directed or warned to do so by either of the commissioners, or shall wilfully injure, hurt, endamage or impair any bank of the said canal, he or she shall, for either of these offences, forfeit the sum of fifty pounds sterling, to be recovered in the most summary manner, before any one or more of the judges of the court of common pleas, who shall not in any such case allow the defendant the benefit of an imparlance, but shall compel him to come to trial without delay.

XI. *And be it further enacted* by the authority aforesaid, That no person shall be allowed to stop the canal, or divert the course of the water thereof, otherwise than by flood gates, to be approved of by the commissioners, nor at any other time or times, nor for any greater length of time, than they may permit.

XII. *And be it further enacted* by the authority aforesaid, That every penalty recovered by virtue of this Act shall be appropriated by the commissioners to defray such expenses as may be incurred in clearing out and keeping clear the said creek, and making and keeping in repair the said canal, or erecting or altering any bridge or bridges over the said creek or canal.

XIII. *And whereas*, sundry inhabitants of Darlington county have petitioned the Legislature to clear and keep open Lowder's Lake, from Herring

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Creek to the mouth thereof: *Be it therefore enacted* by the authority aforesaid, That all the male inhabitants, from the age of sixteen to fifty years, residing within one mile and a half of the said lake, shall be liable to clear and keep open Lowder's Lake, from Herring Creek to the mouth of the said lake. *Provided nevertheless*, that nothing herein contained shall be construed to exempt any of the above hands from working on Peedee river, but they shall be exempted from working on Black Creek. And that Richard Brockington, William Brockington, George McCall, and Charles Dewett, be, and they are hereby, appointed commissioners for carrying into execution this Act, as far as it respects Lowder's Lake.

In the Senate House, the twentieth day of December, in the year of our Lord one thousand seven hundred and ninety-four, and in the nineteenth year of the Independence of the United States of America.

DAVID RAMSAY, *President of the Senate.*

JACOB READ, *Speaker of the House of Representatives.*

AN ACT TO AUTHORIZE THE COMMISSIONERS THEREIN APPOINTED, No. 1616.

TO CLEAR OUT AND REMOVE THE OBSTRUCTIONS IN THE RIVER SAVANNAH, BETWEEN VIENNA AND CAMPBELTON, AND THE TOWN OF AUGUSTA; AND TO DRAW A LOTTERY OR LOTTERIES FOR THAT PURPOSE.

WHEREAS, it is represented that the opening of the navigation of the river Savannah, between Vienna and Campbelton in this State, and the town of Augusta in the State of Georgia, will be attended with great advantages.

I. *Be it therefore enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the river Savannah, between Vienna and Campbelton, on the one side, and Augusta on the other, be cleared out, and the obstructions therein removed, by the persons hereinafter appointed for that purpose.

II. *And be it further enacted* by the authority aforesaid, That Peter Gibbart, Flemming Bates, William Leslie, Julius Nichols, jr. Charles Jones Colcock, William Tateham, and Colonel John Glen, be, and they are hereby, appointed commissioners for the purposes in this Act mentioned; and that upon the death or resignation of either of them, or of any commissioner hereafter to be appointed, the vacancy shall be filled up by the appointment of the remaining commissioners, and he shall have the same power and authority as the commissioners first appointed; and that any five of the said commissioners shall be a quorum to do any business respecting the said navigation, and shall make all necessary orders, contracts and regulations concerning the same, which shall be valid and effectual to all intents and purposes.

III. *And be it further enacted* by the authority aforesaid, That the said commissioners be, and they are hereby, vested with full power and authority to make and proceed to the drawing and concluding of one or more

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lotteries for the above purpose; *provided*, they do not, by the said lotteries, raise more than the net sum of one thousand two hundred pounds.

In the Senate House, the twelfth day of December, in the year of our Lord one thousand seven hundred and ninety-five, and in the twentieth year of the Independence of the United States of America.

DAVID RAMSAY, *President of the Senate.*


ROBT. BARNWELL, *Speaker of the House of Representatives.*

No. 1618. AN ACT TO EMPOWER COMMISSIONERS THEREIN NAMED, TO CUT, SINK AND KEEP IN REPAIR DRAINS AND WATER PASSAGES IN CACAW SWAMP, IN ST. PAUL'S PARISH.

WHEREAS, the several laws heretofore passed for sinking drains and water passages in Cacaw Swamp, have not proved effectual for the purposes thereby intended.

I. *Be it therefore enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That John Wilson, Dr. James Hartley, Joseph Farr, John Boyle, Dr. Meyler, Thomas Roper, and William Washington, Esqrs., shall be, and they are hereby, appointed commissioners for, and they, or a majority of them, or of their successors, are hereby authorized and empowered, within such time as they may think most convenient, to lay out, cut, sink, maintain, and keep in repair, and to agree and contract for laying out, cutting, sinking, maintaining and keeping in repair, either in part or in the whole, such one or more free drains or canals, and in such places, courses and directions, and of such length, depth, width and extent, and in such manner, way and form, as they, or a majority of them, or of their successors, may deem most advisable and advantageous, so as to carry off the waters and be navigable from the causeway at Drayton's Cowpen, on one branch of the said swamp, and from the plantation of the Honorable General William Washington, called Bull's, on the other branch of the said swamp, into Wallace's Creek.

II. *And be it further enacted* by the authority aforesaid, That the said commissioners, or a majority of them, or of their successors, shall have full power and authority to employ overseers, to inspect and superintend the making, cutting, sinking, and keeping in repair, the said drains and canals, and to do all such things as they may think will best tend to carry this Act into execution; and that the said commissioners, or a majority of them, or of their successors, shall choose three disinterested freeholders of the parish of St. Paul, who shall fix and ascertain, upon oath, the value of all the swamp lands lying in the neighborhood of the said canals, or either of them, and the ratio or proportion in which they will be benefited by the same, and also the ratio or proportion in which the negroes belonging to the owners of the said lands, and liable to work upon the said drains and canals, ought to be assessed, according as their lands may be benefited by the said drains and canals, and shall deliver to the said commissioners the valuation and ratio so made, under their hands and seals; and the said com-

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missioners, or a majority of them, or of their successors, shall thereupon make an assessment on the several owners of all such lands and slaves, according to the valuation and ratio aforesaid, which may be sufficient to pay, and shall be paid to the said commissioners, or a majority of them, or of their successors, or to such person or persons as they may appoint to receive the same, for the purposes of paying the expense of making and keeping in repair the said canals and drains, and all charges incident thereto, whether the same be done by contract or otherwise.

III. *And be it further enacted* by the authority aforesaid, That if any person or persons, by themselves or their servants, slaves or others, shall by any ways or means, hinder, oppose or obstruct the said commissioners, or either of them, or their successors, or either of them, or any person or persons by them employed or appointed, or any servant, workman or laborer of any person so employed or appointed, from making, cutting, sinking, clearing or keeping in repair either of the said drains or canals, or any part of either of them, or from cutting down any trees, filling up any hollows, ditches, drains or canals, or from making use of any timber, wood, earth or stone, situate near either of the said canals or drains, which may be necessary for the making or keeping in repair the said drains or canals, or shall obstruct, stop, or in any degree prevent the free passage of water through either of the said drains or canals, or any part thereof, shall forfeit the sum of one hundred pounds sterling; to be recovered by action of debt, in any court of record having sufficient jurisdiction in this State, and to be applied to the making and keeping in repair the said drains and canals.

IV. *And be it further enacted* by the authority aforesaid, That if either of the commissioners above named, or hereafter to be appointed, should leave this State, resign, or refuse or neglect to act, and when any vacancy may happen by death, the rest of the commissioners shall, within twelve weeks thereafter, elect one or more proper persons to supply the place of such one or more commissioners as may have so departed this State, resigned, died, or refused or neglected to act; and in default of such election, the Governor or Commander-in-chief for the time being shall fill up the vacancy; and the person or persons so elected by the remaining commissioners, or appointed by the Governor, shall be invested with, and he and they may lawfully use, exercise and enjoy, the same powers and authorities, and in as full and ample manner, to all intents and purposes whatsoever, as the commissioners hereby appointed, can, or lawfully may do, or of right might or ought to do.

V. *And be it further enacted*, by the authority aforesaid, That the said commissioners shall hold their first meeting at such time and place as a majority of them may agree upon for that purpose; and that at that, and every meeting afterwards to be held, they shall adjourn to some certain time and place, by them to be then appointed, and that they shall meet twice or oftener in every year. But the chairman of the board, or any four commissioners, shall, however, have power to call extraordinary meetings.

VI. *And be it further enacted* by the authority aforesaid, That if any commissioner shall fail or neglect to attend any stated meeting, or any extraordinary meeting, after having had two days notice of such meeting, he shall forfeit the sum of ten pounds; and if while the laborers are actually at work, he fail or neglect to attend at any place for that purpose appointed, for every day's absence he shall forfeit the sum of two pounds; unless in either of these cases he shall offer at the next stated meeting such an excuse as a majority of the board shall determine to be good and sufficient.

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VII. *And be it further enacted* by the authority aforesaid, That any four of the said commissioners shall be a board or quorum to do any business arising out of this Act; and all acts, orders and resolutions, passed, carried, or done by the votes of a majority of the commissioners present at any board or meeting, shall be valid, legal and effectual, to all intents and purposes.

VIII. *And be it further enacted* by the authority aforesaid, That the said board shall have power to employ a surveyor to lay out the drains and canals aforesaid, in as ample a manner as they may judge necessary or proper, and that the expense thereof shall be paid in the same manner as other expenses incident to the said drains and canals; that they shall have authority to have any such banks made as they may deem necessary for the said drains and canals, and to have one or more locks made in the same, and to build, alter, renew, rebuild or enlarge any bridge or bridges that they may think proper or necessary to cross the said drains or canals; the expense thereof shall be paid as other incidental expenses are to be paid; and that they shall be empowered to cut down or use for the said drains or canals, any trees or timber or any earth that may be found on or near the course of the same. And if any person shall fail or neglect to pay any assessment authorized by this Act, within the time prescribed by the commissioners for that purpose, the same shall be recovered by warrant or execution, under the hand of either of the said commissioners, directed to any such person as he may name therein, or deliver the same to for that purpose, and that the property levied, whether real or personal, shall be publicly sold, any time after twenty-one days notice thereof shall be given by advertisement in any two gazettes in Charleston.

IX. *And be it further enacted* by the authority aforesaid, That every person owning or possessing any slave or slaves, residing upon the plantations, which by the commissioners to be appointed according to the second clause in this Act, may be returned as being benefited by the said drains or canals, shall, upon oath, return to the commissioners appointed hereby, and their successors, whenever by them required, the name of every such slave, male and female, from the age of sixteen to fifty years, both inclusive; and if any such person shall fail or neglect to make such return, within the time for that purpose to be prescribed by the said board, he or she shall forfeit the sum of two dollars for every slave not so returned; to be recovered, levied and raised, by warrant under the hand and seal of the chairman of the said board, or any four of the commissioners, directed to such person or persons as he or they may think fit to name for that purpose.

X. *And be it further enacted* by the authority aforesaid, That every slave within the description in the ninth clause of this Act mentioned, shall be liable to work upon the said drains and canals; and whenever the said commissioners shall think proper to call out the said slaves upon the work, they shall give at least two days previous notice thereof to their owners, if they then be upon the plantations, and if not, to the managers or overseers upon the said plantations, and if there should be no owner, manager nor overseer upon either of the said plantations, then to the driver belonging thereto; and after having given such notice, every such slave shall, at the time appointed by the board, repair to the place for that purpose appointed, each male carrying with him a spade and an axe, and each female, a hoe; and if any such slave shall fail or neglect to appear at the time and place so appointed, with the implements aforesaid, the owner thereof shall forfeit one dollar for every day during which such slave shall be absent, or be without those implements; to be levied, recovered and raised in the same

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manner as is prescribed in the next preceding clause ; unless such owners shall, at the next stated or regular meeting of the board, offer such excuse as they may think sufficient. *Provided always*, that the said commissioners shall not compel any slave to work upon the said drains or canals longer than twelve days in the course of any one year.

XI. *And be it further enacted* by the authority aforesaid, That every fine and penalty recovered by virtue of this Act, shall be appropriated by the commissioners to defray such expenses as may be incurred in making and keeping in repair the said drains and canals, or erecting, altering, repairing, or renewing any bridge to cross the same.

XII. *And be it further enacted* by the authority aforesaid, That the commissioners hereinbefore named, and their successors, shall keep a regular journal of their proceedings, which said journal shall be open at any time for the inspection of any person or persons concerned, who may take what extracts they please from the said journals.

XIII. *And be it further enacted* by the authority aforesaid, That an Ordinance entitled "An Ordinance to empower commissioners therein named, to cut and sink drains and water passages in Cacaw Swamp, St. Paul's Parish," passed on the twenty-sixth day of March, in the year of Lord one thousand seven hundred and eighty-four ; and also, so much of the Ordinance passed on the seventeenth day of March, in the year of our Lord one thousand seven hundred and eighty-five, entitled "An Ordinance to amend an Ordinance entitled An Ordinance to empower commissioners therein named, to cut and sink drains and water passages in the swamp and savannahs formed by the north east branch of Stono river, passed the sixteenth day of March, in the year of our Lord one thousand seven hundred and eighty-three ; also, to amend an Ordinance entitled An Ordinance to empower commissioners therein named, to cut and sink drains and water passages in Cacaw Swamp, St. Paul's Parish, passed the twenty-sixth day of March, in the year of our Lord one thousand seven hundred and eighty-four"—as relates to the drains and water passages authorized or directed to be made by the ordinance last mentioned, shall be, and the same are hereby, repealed.

In the Senate House, the twelfth day of December, in the year of our Lord one thousand seven hundred and ninety-five, and in the twentieth year of the Independence of the United States of America.

DAVID RAMSAY, *President of the Senate.*

ROBT. BARNWELL, *Speaker of the House of Representatives.*

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No. 1624. AN ACT TO ALTER AND AMEND AN ACT ENTITLED "AN ACT TO ENABLE COMMISSIONERS THEREIN APPOINTED TO CLEAR OUT AND REMOVE THE OBSTRUCTIONS IN THAT BRANCH OF ASHEPOO RIVER WHICH IS CALLED THE HORSE-SHOE CREEK, AND TO CUT OR SINK AND KEEP IN REPAIR, A DRAIN OR CANAL, FROM THE HEAD OF THE SAID CREEK, UP THE SWAMP CALLED THE ROUND O SWAMP, TO THE JUNCTION OF THE TWO BRANCHES OF THE SAID SWAMP, AT THE PLANTATION KNOWN BY THE NAME OF GILKICKER'S; FOR OPENING LOWDER'S LAKE; AND FOR OTHER PURPOSES THEREIN MENTIONED;" PASSED ON THE TWENTIETH DAY OF DECEMBER, IN THE YEAR OF OUR LORD ONE THOUSAND SEVEN HUNDRED AND NINETY-FOUR.

I. *Be it enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That Peter Smith and William Sanders, Esq's., be, and they are hereby appointed, commissioners, in addition to, and to act with, those commissioners who were appointed in the above recited Act, and that they shall have the same powers and authority as are vested in the commissioners appointed in the said Act, and be liable to the same penalties, fines and forfeitures, as are therein provided for the commissioners appointed in the same.

II. *And whereas*, it is but just and right, that in the prosecution of the work contemplated in the aforesaid Act, that each and every person who will derive benefit and advantage therefrom, shall, in proportion to the benefit and advantage derived, contribute towards the completion of the clearing out the said creek, and making and keeping in repair the said canal; *Be it therefore enacted*, That the commissioners appointed in the aforesaid Act, and in this Act, or a majority of them, or of their successors, shall have full power and authority to ascertain and point out, on oath, what proprietors of swamp lands and slaves, as also what proprietors of slaves employed on leased or rented swamp lands, and likewise what proprietors of swamp lands unoccupied, are benefitted and advantaged by the clearing out the said creek, and making and keeping in repair the said canal; and to lay and impose an assessment, the most equitable and impartial, on all the property of the foregoing description; which assessment, the said commissioners, or a majority of them, or their successors, are hereby authorized and empowered to receive, either in the labor of such slaves as are made liable by the aforesaid Act to work on the said creek and canal, or in money, as may be preferred by the person or persons on whose property the assessment is made.

III. *And be it further enacted* by the authority aforesaid, That if any person or persons shall fail or neglect to pay any assessment authorized by this Act, within the time prescribed by the commissioners for that purpose, the same shall be recovered in money, by warrant under the hands and seals of a majority of the said commissioners, or their successors, directed to any such person as they, or a majority of them, or their successors, may appoint; and the property levied on, whether real or personal, shall be publicly sold, after twenty-one days notice thereof shall have been given, by advertisement, in any two gazettes in Charleston.

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IV. *And be it enacted* by the authority aforesaid, That the aforesaid commissioners, or a majority of them, or their successors, shall have full power and authority to continue the canal aforesaid and specified, as high up the said swamp, and in such courses, and of such size, as they may deem convenient and proper; and also to make and keep in repair, a drain or canal, up the swamp called the Horse-shoe Swamp, which vents into the aforesaid creek, and to make the same of such width, depth, and in such courses and directions, as they may think right and proper. And in extending and keeping in repair the first mentioned canal, or in laying out, making, and keeping in repair, the canal or drain up the Horse-shoe Swamp, the aforesaid commissioners, or a majority of them, or their successors, are hereby declared to be possessed of all the powers and authority specified in the aforesaid Act, passed on the twentieth day of December, in the year of our Lord one thousand seven hundred and ninety-four, and in this Act.

V. *And be it further enacted* by the authority aforesaid, That all expenses which may be incurred in laying out the said canals, and building bridges over them and the aforesaid creek, and also in making locks in the said canals, shall be defrayed by an impartial and equitable assessment, to be made by the commissioners, or a majority of them, or of their successors, on all the lands which may be benefitted by the clearing out the said creek, and in making and keeping in repair the said canal, or canals, and on all the slaves made liable to work on the same; and such assessment shall be recovered, in case of default, in the same manner as is specified in the third clause of this Act.

VI. *And be it further enacted*, That a journal of all their proceedings shall be kept by the aforesaid commissioners and their successors, which shall be open to the inspection of the proprietors on the said swamps, who may make, at any time, any extracts they may think proper, from the same.

In the Senate House, the nineteenth day of December, in the year of our Lord one thousand seven hundred and ninety-five, and in the twentieth year of the Independence of the United States of America.

DAVID RAMSAY, *President of the Senate.*

ROBERT BARNWELL, *Speaker of the House of Representatives.*

AN ACT TO OPEN AND KEEP IN REPAIR A CANAL, TO LEAD FROM No. 1640.
ROGERS'S LAKE INTO PEEDEE RIVER.

WHEREAS, sundry inhabitants of Marlborough county have petitioned the Legislature of this State to have opened and kept in repair the canal hereinafter mentioned, and it appears that it would be very advantageous to the said county that the same should be done.

I. *Be it therefore enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That Robert Allison, Edward Crausland, and Tristram

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Thomas, shall be, and they are hereby appointed, commissioners for the purposes hereinafter mentioned; and that they, or a majority of them, and their successors, or a majority of them, shall, from time to time, appoint such person or persons as may be necessary to supply any vacancy or vacancies which may happen among the said commissioners, by death, resignation, removal from the county, or otherwise; and that in case the said commissioners, or their successors, should neglect to supply any such vacancy, for six calendar months after the same may happen, the judges of the county court of the said county for the time being, shall, upon application by any three of the inhabitants of the said county, appoint some person or persons to supply such vacancy or vacancies.

II. *And be it enacted* by the authority aforesaid, That the said commissioners, or a majority of them, and their successors, or a majority of them, shall have full power and lawful authority to lay off, open, sink, cut, clear out and keep in repair, a canal of not more than fifty feet width, to lead from any part of the said lake to such part of the said river as they may deem most fit; and also to stop up, obstruct, and constantly keep shut, the creek running therefrom, commonly called Naked Creek, at such part thereof as they may deem most convenient; and also to divert the water from the said creek, so far as to run through the said lake and canal. *Provided, always*, that the expense of carrying this Act into execution shall always be defrayed by voluntary subscription.

III. *And be it further enacted* by the authority aforesaid, That the said canal, when opened, shall, forever afterwards, be and remain free and common to the use and enjoyment of every citizen of this country, and the public at large.

In the Senate House, the nineteenth day of December, in the year of our Lord one thousand seven hundred and ninety-six, and in the twenty-first year of the Independence of the United States of America.

DAVID RAMSAY, *President of the Senate.*

ROBT. BARNWELL, *Speaker of the House of Representatives.*

No. 1760. AN ACT TO REPEAL THE ACT ENTITLED "AN ACT TO ESTABLISH A COMPANY FOR THE OPENING THE NAVIGATION OF BROAD AND PACOLET RIVERS."

WHEREAS, a large majority of the persons composing the said company, have relinquished to the State all their right, interest and claim, in and to the said Act of corporation. And *whereas*, the said company have altogether failed and neglected to carry into execution the great and beneficial objects for which they were incorporated.

I. *Be it therefore enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the said Act, and every clause and provision thereof, be, and the same is hereby, repealed

II. *And be it further enacted* by the authority aforesaid, That three commissioners be appointed by his Excellency the Governor, in behalf of

*Acts relating to Rivers.*A. D. 1801.


the State, and three commissioners by such persons as have not relinquished their shares in the said company; which six commissioners shall appoint a seventh; and they, or a majority of them, shall have power to determine whether the above resumption of the charter be injurious to the said persons, considering their laches and non-user of their charter. And if they, or a majority of them, shall determine the said resumption to be injurious, that they, or a majority of them, shall determine what compensation it would be proper to make such persons, and report the same to the Legislature.

III. *And be it further enacted* by the authority aforesaid, That Warren Buford, William Hill, Arramenas Lyles, Joseph Brown, John Pearson, Joseph Hughes, Thomas Taylor, Robert Stark, and John A. Summers, be, and they are hereby appointed, commissioners to superintend and contract for the opening the aforesaid rivers; and they are hereby authorized to draw on the treasury of this State for any sum not exceeding ten thousand dollars, towards defraying the expense that may arise in making the said Broad and Pacolet Rivers navigable.

In the Senate House, the nineteenth day of December, in the year of our Lord one thousand eight hundred and one, and in the twenty-sixth year of the Independence of the United States of America.

JOHN WARD, *President of the Senate.*

THEODORE GAILLARD, *Speaker of the House of Representatives.*

AN ACT TO OPEN THE NAVIGATION OF CERTAIN RIVERS THEREIN MENTIONED, AND FOR CUTTING A CANAL ACROSS NORTH ISLAND. No. 1857.

WHEREAS, the opening and clearing of the inland navigation of the large rivers of this State, would be highly beneficial to the agricultural, commercial and general interest thereof, and would greatly facilitate and cheapen the carriage of produce and other heavy commodities to market; therefore,

I. *Be it enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That John Drehr, James Gowdy, Sampson Pope, Major William Moore, Phillimon Berry Waters, William Caldwell, and Elihu Caldwell, be, and they are hereby appointed, commissioners to contract for and superintend the opening of Saluda and Broad rivers, as far up the said Saluda river as the sum of money hereafter appropriated for that purpose shall be sufficient.

II. *And be it further enacted* by the authority aforesaid, That the sum of ten thousand dollars be, and is hereby, appropriated for opening the said river Saluda, from the confluence of the said Saluda and Broad rivers as far up the said river Saluda as the said sum shall be sufficient to make the said river navigable for boats.

III. *And be it further enacted* by the authority aforesaid, That Major John Hampton, Mr. John Taylor, William Joseph Hughes, Thomas Jenkins, Capt. Edward Tilman, Reuben Sims, William Hill, and Maj. Adam

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Meek, bc, and they are hereby appointed, commissioners to contract for and superintend the opening of the navigation of Broad river, from the confluence of Broad and Saluda rivers to the confluence of Broad and Pa-colet rivers.

IV. *And be it further enacted* by the authority aforesaid, That the sum of four thousand dollars be, and is hereby, appropriated for the purpose of opening the navigation of the said Broad river, as aforesaid.

V. *And be it further enacted* by the authority aforesaid, That John Moffit, Obadiah Tremier, Thomas Stribling, Benjamin Glover, William Pace, Leroy Hammond, James Calhoun, Samuel Earle, David Sloan, Jas. R. Baird, William Noble, James Lawson, Samuel Crafton, and Peter Gibert, be, and they are hereby appointed, commissioners to contract for and superintend the clearing and opening the navigation of Savannah river, from Campbelton to the confluence of the Tugaloo and Keowee rivers; and they are hereby authorized and empowered to act with and in conjunction with the commissioners which are or shall be appointed by the State of Georgia, for the same purpose.

VI. *And be it further enacted* by the authority aforesaid, That the sum of ten thousand dollars be, and is hereby, appropriated for the purpose of opening the said Savannah river, from Campbelton to the confluence of Tugaloo and Keowee rivers, when the like sum is appropriated for the like purpose by the State of Georgia.

VII. *And be it further enacted* by the authority aforesaid, That William Pegues, sen., William Powe, Col. Andrew Smith, Major Drury Robertson, Thomas Ellerbe, John Lyde, Malachi Pegues, Adam Marshall, Colonel Benton, Cornelius Mandaville, Gavin Witherspoon, James Lyde, and John Gibson, be, and they are hereby, appointed to contract for and superintend the opening and clearing the navigation of Big Peedee, from Britton's ferry to the place where the North Carolina line crosses the said river.

VIII. *And be it further enacted* by the authority aforesaid, That the sum of four thousand dollars be, and is hereby, appropriated for the purpose of clearing and opening the navigation of Big Peedee, from Britton's ferry to the place where the North Carolina line crosses the said river.

IX. *And be it further enacted* by the authority aforesaid, That Zachariah Cantey, Matthew Moore, Isaac Ross, Duncan M'Ra, Dan Carpenter, Major J. Moore, and W. J. Reese, be appointed commissioners to contract for and superintend the improvement of the navigation of Wateree river, from Camden ferry to its confluence with Congaree River.

X. *And be it further enacted* by the authority aforesaid, That the sum of two thousand dollars be appropriated for the improvement of the navigation of that part of Wateree river between Camden ferry and its confluence with Congaree river.

XI. *And be it further enacted* by the authority aforesaid, That each Board of commissioners appointed for the purposes before mentioned in this Act, shall, and they are hereby directed to, lodge with and make out to the comptroller-general, on the first day of October, in every year, until the several sums be expended or the work finished, a full and accurate statement of all monies by them expended, and the items for which the said sums were expended, together with a statement of the work done, and the situation and improvement of that part of the inland navigation for which they were appointed to contract for and superintend.

XII. *And be it further enacted* by the authority aforesaid, That no person appointed a commissioner by this Act shall be a contractor for doing any

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part of the work; that no money shall be drawn out of the treasury except on written application, signed by two-thirds of the commissioners, nor money drawn out by warrant of the comptroller, unless he is satisfied that the sum previously drawn out has been applied, or nearly so, and that the work is progressing to the improvement of navigation.

XIII. *And be it further enacted* by the authority aforesaid, That David Sims, Samuel Otterson, Robert Granger, Isaac Person, Thomas Green, jun., Thomas B. Hunt, and Barnet Glen, be, and they are hereby appointed, commissioners to view Tyger river, and report to the next Legislature how soon it will be practicable to open the said river for the passage of boats, and the probable sum that will be necessary to effect the same.

XIV. *And be it further enacted* by the authority aforesaid, That the sum of twenty thousand dollars be appropriated for the purpose of cutting a canal across North Island, from Winyaw Bay to the ocean, conformable to the plan Colonel Seuf, engineer to the State, recorded in the office of the register of mesne conveyances in Georgetown; that Savage Smith, Joseph Alston, Charles Brown, Robert Grant, and Samuel Taylor, be, and they are hereby appointed, commissioners, and they, or a majority of them, shall superintend the cutting of said canal.

XV. *And be it enacted* by the authority aforesaid, That Benjamin Gause, Henry Durant, and Richard Green, sen., be, and they are hereby appointed, commissioners to examine and ascertain what sum of money it will require to clear out and make navigable the river of Waccamaw, from the mouth of Bull creek to where the North [Carolina] line crosses said river, and to report the same at the sitting of the next Legislature.

XVI. *And be it enacted* by the authority aforesaid, That William Witherspoon, Thomas Black, Daniel Millhouse, Nathaniel Lawrence, and David Rumph, be, and they are hereby appointed, commissioners to examine the channel of the Wassmassaw and Cypress Swamp, from Legaire's ford to Bacon's bridge; and they, or a majority of them, are hereby required to report to the next Legislature the sum which would be necessary to clear and open said channel.

XVII. *And be it further enacted* by the authority aforesaid, That John Ford, Major Robert Moody, Thomas Harley, Colonel Phillip Bethea, Robt. Dunnam, William Davis, and John Rodgers, be, and are hereby appointed, commissioners to examine and report to the next session of the Legislature the sum necessary to clear and improve the navigation of Little Peedee River, from its confluence with Great Peedee to Blue's bridge, on the said river.

XIX. *And be it further enacted* by the authority aforesaid, That James Miles, John M'Pherson, Barkley Ferguson, Lewis M. Ayer, and John Smyley, be, and they are hereby appointed, commissioners to inspect Salt-catcher River, and report to the Legislature at the next session, whether it be practicable to make said river navigable to the south and north fork, and what sum will be necessary for the execution of the same.

In the Senate House, the nineteenth day of December, in the year of our Lord one thousand eight hundred and five, and in the thirtieth year of the Independence of the United States of America.

ROBT. BARNWELL, *President of the Senate.*

JOSEPH ALSTON, *Speaker of the House of Representatives.*

A. D. 1809.

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No. 1959. AN ACT TO ESTABLISH A COMPANY FOR THE INLAND NAVIGATION FROM SAMPIT INTO SANTEE, AND FROM SANTEE INTO COOPER OR WANDO RIVER.


I. *Be it enacted* by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the several persons who shall or may associate, as hereinafter prescribed, for the purpose of cutting a canal from Sampit river into Santee river, and from Santee river into Wando or Cooper river, as they shall hereafter determine on, and their successors, shall be, and they are hereby, incorporated as a body politic, in deed and in law, by the name of "The Sampit and St. James Santee Canal Company."

II. *And be it enacted* by the authority aforesaid, That the said corporation, by their name aforesaid, shall have perpetual succession of officers and members, to be appointed according to the by-laws and regulations which they may establish for the government of the said corporation; and they may have a common seal, with power to break, alter and make new the same as often as they shall judge expedient.

III. *And be it enacted* by the authority aforesaid, That the said corporation shall be able and capable in law, to purchase, have, hold and take, receive, possess, retain and enjoy to itself, in perpetuity or for any term of years, any estate, real or personal, of what kind or nature soever, and to sell, alien or dispose of the same as they may think proper; and, by the name aforesaid, to sue and be sued, implead and be impleaded, answer and be answered unto, in any court of law or equity; and to make such rules and by-laws, not repugnant or contrary to the laws of the land, as for the good order and proper government of the said corporation, may by the same be thought expedient or necessary. *Provided, nevertheless*, that the said real and personal estate shall not produce an annual income exceeding ten thousand dollars, exclusive of their tollage.

IV. *And be it further enacted* by the authority aforesaid, That Chas. J. Steedman, Edward Craft, Alexander Howard, William S. Smith, and John Dawson, jun., or a majority of them, be, and they are hereby appointed, commissioners to receive subscriptions for the establishment of the company aforesaid, for which purpose they shall meet at the Exchange in Charleston, on the first Monday and the Tuesday following of February next; and for the same purpose of receiving subscriptions for the establishment of the company aforesaid, John Shackelford, A. Toomer, and S. Smith, are hereby appointed commissioners to open a subscription at the Town-Council room in Georgetown, on the same days prescribed for the subscription in Charleston, and there receive the subscriptions of all such persons as shall be desirous of subscribing and associating for the purpose of becoming members of the corporation aforesaid.

V. *And be it further enacted* by the authority aforesaid, That the capital of the said company shall be divided into one thousand shares. And if, on the days aforesaid, more than the said number of shares shall be subscribed for, then they shall be apportioned among the subscribers, in average and proportion to the number of shares by them respectively subscribed. *Provided, however*, that the subscribers, respectively, shall have at least one share allotted to them, unless there shall not be a sufficient number of shares to make such apportionment, in which case they shall be apportioned by lot, neither requiring more than one share.

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VI. *And be it further enacted* by the authority aforesaid, That the said company shall and may cause a communication or inland navigation, by canals and locks, to be made and kept up through such places as to them shall seem most fit; and that they and their successors ever shall and may fix and establish, and be entitled to have and receive, by way of toll, for all goods and merchandizes carried on or through boats, vessels or rafts passing on or through the said canals, such rates or terms as the said company shall think proper to impose, not exceeding twenty-five per cent. per annum on the money which they shall have expended, from time to time, in making and keeping in repair the said canals and locks, (to ascertain which, the books of the said company shall be liable to the inspection of the Legislature;) that the said toll shall be paid, payable in specie, according to its value, as now established, and at no other rate, and in no other kind of money; and that the said company, or their agents, may stop any goods, vessels, boats or rafts from passing the said canals, until payment of the toll established.

VII. *And be it enacted* by the authority aforesaid, That the said company shall have power and authority to purchase, for themselves and their successors for ever, such land as may be necessary for the purpose of making and keeping up reservoirs for the use of the canals and locks, and for the establishment of all requisite buildings; and where they and the owners of such land cannot agree for the same, to take such land on valuation to be made by a majority of five persons, to be appointed by the court of equity or common pleas to value the same; which land shall, on the payment of the sum at which it shall be so valued, be possessed by and vested in the said company and their successors for ever.

VIII. *And be it further enacted* by the authority aforesaid, That the said company shall be obliged to keep the said canals and locks at all times in good and sufficient order, condition and repair, on pain of being answerable for any damages occasioned by their wilful default or neglect; that the stock, shares, and also the land possessed by said company, be forever exempt from any rate, tax, duty, assessment or imposition whatever; and that the said stock and shares may be sold, transferred and assigned and bequeathed by the proprietors respectively; and in case of their dying intestate, shall go as personal estate, according to law.

IX. *And be it further enacted* by the authority aforesaid, That if any person or persons shall, wilfully or maliciously, cut, break down, damage or destroy, any bank or other work to be executed and made for the purpose of said navigation, such person or persons shall, on conviction, be fined, not exceeding one thousand dollars, and imprisoned for any term not exceeding twelve months. And if any person shall throw dirt, trees, logs, or any other rubbish, into the said canals, so as to prejudice the same, such person or persons shall be answerable to the said company for all damages done thereby.

X. *And be it further enacted* by the authority aforesaid, That the said company shall have power to use any materials in the vicinity of the canals, for making the locks or keeping the same in repair, paying a reasonable price for the same, which price shall be ascertained in like manner as heretofore provided in the value of lands; that all lands which have not been heretofore granted to any person, through which the said canals shall pass, shall be vested in the said company and their successors for ever.

XI. *And be it further enacted* by the authority aforesaid, That the said

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company shall be, and they are hereby, authorized and empowered to institute and draw one or more lotteries, not exceeding five, at such time and in such manner and according to such plan as they may think fit; the net profits whereof shall not exceed one half of the cost or expense of the said canals and locks, and the profits thereof to apply to the use of the said company, for the purposes aforesaid.

XII. *And be it further enacted* by the authority aforesaid, That if any person shall be sued for any matter or thing done in pursuance of this Act, he may plead the general issue, and give this Act and the special matter in evidence; and on a verdict against the plaintiff, a non-suit, or discontinuance, recover double costs. That this Act shall be deemed and taken to be a public Act, and judicially taken notice of as such, without special pleading, and liberally construed for carrying the purposes aforesaid into effect.

XIII. *And be it further enacted* by the authority aforesaid, That all rights and privileges hereby granted to said corporation, together with the charter of incorporation hereby granted, shall cease and determine, unless the persons associating as members of said corporation shall, within five years, commence and prosecute the projected canal, and shall complete the same within twenty-one years after the same shall be commenced.

In the Senate House, the nineteenth day of December, in the year of our Lord one thousand eight hundred and nine, and in the thirty-fourth year of the Independence of the United States of America.

SAMUEL WARREN, *President of the Senate.*

JOSEPH ALSTON, *Speaker of the House of Representatives.*

No. 2036. AN ACT APPOINTING COMMISSIONERS TO LAY OUT AND MAKE A PORTAGE AT LOCKERT'S SHOALS IN BROAD RIVER.

I. *Be it enacted* by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That Capt. Joseph Hughes, Maj. James Ming, and Captain Samuel Hancett, be, and they are hereby, appointed commissioners to lay out a portage on the west side of Broad river, from the upper to the lower end of the upper Lockert's shoals on the said river, and they are hereby required and authorized to lay out the said portage in the most suitable and convenient manner, so as to do the least possible injury to the owner of the soil; and if it shall be necessary, they are hereby authorized and required to call upon all persons liable to work on the public roads, residing within the distance of five miles from the said shoal, giving them six days notice of the time, and there continue until the said portage or way shall be completed; *provided*, it does not exceed six days in one year; and in case the persons so called out, shall refuse or neglect to render the services required by this Act, they shall forfeit and pay the same fines and penalties as are by law imposed on persons refusing or neglecting to work on the public roads; and

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the commissioners aforesaid are hereby authorized to enforce the collection of the said fines and penalties, in the same manner as the commissioners of the high roads are now authorized to do.

II. *And be it enacted* by the authority aforesaid, That the said portage or way shall be deemed and taken as a public highway, to all intents and purposes whatsoever.

III. *And be it further enacted* by the authority aforesaid, That the commissioners appointed by this Act, be, and they are hereby, authorized and required to appraise and value what injury the land of Thos. Hughes shall sustain by the opening of the road aforesaid, and report the same to the next session of the Legislature.

In the Senate House, the eighteenth day of December, in the year of our Lord one thousand eight hundred and thirteen, and in the thirty-eighth year of the Independence of the United States of America.

SAVAGE SMITH, *President of the Senate.*

JOHN GEDDES, *Speaker of the House of Representatives.*

AN ACT TO IMPROVE AND EXTEND THE NAVIGATION OF BLACK RIVER. No. 2080.

WHEREAS, the inhabitants of the lower part of Sumter district, have represented, that the navigation of Black river, may, at a small expense, be extended to Atkins's or Scape Whore Bridge, upon the said river.

I. *Be it therefore enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That Samuel Neilson, Arthur Bradley, Robert Muldrow, Samuel McBride, John McFadden, William McIntosh, Samuel M. Witherspoon, William Montgomery, Jared J. Nelson, Miles H. Plowden, Eli McFadden, Reardon McCoy, Henry Atkinson, Benjamin Pendergrass, and James Wey. be, and they are hereby, appointed commissioners to open and improve the navigation of Black river, from Robert Lowry's to Atkinson's or Scape Whore Bridge, on the said river; and that all the slaves within five miles, who are liable by law to work on the roads of that part of the said river, shall be, and they are hereby made, liable to work on the said river, under the direction of the said board of commissioners, three days in each year, if required, and no more.

II. *And be it further enacted* by the authority aforesaid, That the above named persons, or a majority of them, shall form a board of commissioners for the purposes aforesaid, and shall have full power and authority, when they shall think necessary, to summon all the male slaves aforesaid, living between the said Robert Lowry's and Scape Whore Bridge, within five miles from the said river—giving six days previous notice, to work on the same; and if any person shall refuse or neglect to send their male slaves as aforesaid, when summoned to work on the same by the said board of commissioners, or any person by them appointed for that purpose, every such person shall forfeit and pay a sum not exceeding one dollar per day for every male slave, as aforesaid, so by him neglected or refused to be

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sent; to be recovered by warrant of distress, under the hands of any three of the said commissioners, against the goods and chattels of the defaulter, which, after ten days notice by advertisement, shall be exposed to public sale, for and towards the fines hereby imposed, which said fines shall be applied by the said board of commissioners to the opening and improving the navigation of the said river, within the limits aforesaid.


III. *And be it further enacted* by the authority aforesaid, That the said board of commissioners shall be authorized, and they are hereby required, to open and improve the navigation of the south prong of the said river, as far up as Bruington's bridge.

IV. *And be it further enacted* by the authority aforesaid, That the said board of commissioners shall have full power and authority to divide that part of the said river hereby directed to be opened, into as many divisions as they may think necessary and proper, and direct what hands shall work on each of the said divisions; and they are hereby empowered to appoint overseers for each of the said divisions, and the said overseers are hereby empowered moderately to correct all such male slaves as shall refuse or neglect to work. And if any of the overseers appointed for the purposes aforesaid by the said board of commissioners, shall refuse or neglect to do his duty agreeable to the orders of the said board of commissioners, every such overseer shall forfeit and pay a sum not exceeding twenty dollars; to be recovered and applied in like manner as is hereinbefore directed. *Provided*, that no person shall be compelled to serve as an overseer more than one year in every term of six years.

V. *And be it further enacted* by the authority aforesaid, That the said board of commissioners shall have full power and authority to cut down and make use of any timber, wood or stone, in or near that part of the said river hereby directed to be opened, for the purpose of improving the navigation of the same, as to them shall seem necessary. And if any person or persons whomsoever, shall stop up, or in any wise injure or impede the navigation of the said river, by falling of trees, rolling of logs, or placing other obstructions therein, every such person so offending shall forfeit and pay a sum not exceeding five hundred dollars; to be recovered and applied as is hereinbefore directed.

VI. *And be it further enacted* by the authority aforesaid, That if any vacancy shall happen in the said board of commissioners, the remaining commissioners, or a majority of them, at their next meeting, shall choose some fit and proper person to fill such vacancy; and the person so chosen is hereby declared to be a commissioner, and vested with all the powers and authority given by this Act to the commissioners hereinbefore mentioned.

VII. *And be it further enacted* by the authority aforesaid, That Hugh Lide, Moses Sanders, Peter Edwards, Thomas Williamson, David Gregg, Robert Ervin, George McCall, Zachariah Ellerbe, Christopher R. Pegues, Thos. T. Ellerbe, George Hodges, Charles Irby, John Rogers, John Burch, John Terrell, and Francis Gillispee, be, and they are hereby appointed, commissioners to open and improve the navigation of Great Peedee river, from the North Carolina line down to the mouth of Black creek, and shall be called and known by the name of the Upper Board of Commissioners on Peedee; and that all the male inhabitants, between the ages of sixteen and fifty years, living within six miles of said river, shall be, and they are hereby made, liable to work on the same, under the direction of said commissioners, for the space of six days in a year, if required, and no more.

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VIII. *And be it further enacted* by the authority aforesaid, That John Gibson, Alexander Gregg, senior, Thomas Godbolt, James Johnson, Joseph Burch, Richard Godfrey, Stephen Shackleford, senior, James Harrell and Francis Graves, be, and are hereby, appointed commissioners to open and improve the navigation of Great Peedee river, from the mouth of Black creek down to the mouth of Lynch's creek, and shall be called and known by the name of the Middle Board of Commissioners on Peedee river; and that all the male inhabitants, from the ages of sixteen to fifty years, living within six miles of said river, shall be, and they are hereby made, liable to work on the same, under the directions of the said commissioners, for the space of six days in a year, if required, and no more.

IX. *And be it further enacted* by the authority aforesaid, That Samuel Wilson, Thomas Britton, Benjamin Grice, William Varen and William Woodbury, be, and they are hereby, appointed commissioners to open and improve the navigation of Great Peedee river, from the mouth of Lynch's creek down to the plantation known by the name of Singleton's plantation on Great Peedee river, and shall be called and known by the name of the Lower Board of Commissioners on Great Peedee river; and that all male inhabitants, from the ages of sixteen to fifty, living within six miles of said river, shall be, and they are hereby made, liable to work on the same, under the direction of the said commissioners, for the space of six days in a year, and no more.

X. *And be it further enacted* by the authority aforesaid, That the said respective Boards of Commissioners shall have full power and authority, when they shall think necessary, to summon all the male inhabitants, giving two days previous notice, to work on said river. If any person or persons shall refuse or neglect to go, or send their male slaves, when summoned by the commissioners aforesaid, or by any person by them appointed for that purpose, every such person shall forfeit and pay a sum not exceeding two dollars per day, at the discretion of the commissioners, for himself, and one dollar per day for every male slave so neglected or refused to be sent; to be recovered by immediate warrant of distress, under the hands of any three or more of the commissioners, against any of the goods and chattels of the defaulters, which, after ten days public notice, shall be sold for the purpose of paying the fine aforesaid, and charges accruing thereon, and the overplus, if any, returned to such defaulter. And all fines so recovered, shall be by the commissioners appropriated to the improvement of the navigation of the said river, respectively, where the defaulter is made liable to work.

XI. *And be it further enacted* by the authority aforesaid, That the several and respective Boards of Commissioners hereinbefore appointed, shall have full power and authority to divide their respective districts into smaller ones, and direct what hands shall work thereon; they shall also have power and authority to appoint overseers, and the overseers so appointed are hereby impowered moderately to correct all such male slaves as shall neglect or refuse to work; and if any white person shall neglect or refuse to work when present, the overseer shall return his name to the commissioners, who shall fine him for the first offence, a sum not exceeding two dollars, and for the second offence, not exceeding ten dollars, at the discretion of the commissioners, to be recovered and appropriated as other fines hereinbefore mentioned; and if any overseer to be appointed by virtue of this Act, shall refuse or neglect to serve and perform his duty agreeable to law, and the direction of the commissioners, he shall

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forfeit and pay a sum not exceeding twenty dollars, at the discretion of the commissioners, to be recovered and appropriated as hereinbefore mentioned; *provided*, that no person shall be compelled to serve as an overseer more than one year in any term of ——— years.

XII. *And be it further enacted* by the authority aforesaid, That the several and respective Boards of Commissioners hereinbefore appointed, shall be, and they are hereby, fully authorized and impowered to take and make use of any boats, flats or canoes within their respective districts, for the purpose of improving the navigation of the said river, except such as are kept for the use of any public ferry, and shall return the same to the place where taken from, or to the landings of the proper owners, in the like order they were taken; *provided*, that no boat, flat or canoe, shall be detained from the owner more than three days in any one year.

XIII. *And be it further enacted* by the authority aforesaid, That the several and respective Boards of Commissioners, according to their several divisions, shall have full power and authority to cut down and make use of any timber, wood, earth or stone, in or near the said river or creek, for the purpose of improving the navigation of the same, as to them shall seem necessary; and if any person shall stop up, or in any wise impede or injure the navigation of the said river or creek, by falling of trees, rolling rocks, &c., into them, such person or persons so offending shall forfeit and pay a sum not exceeding twenty dollars for every such offence, at the discretion of the commissioners, and shall also be compelled to remove all such obstructions by him or them occasioned.

XIV. *And be it further enacted*, That the several and respective Boards of Commissioners shall be, and they are hereby, fully authorized and required, at all such places as they may think it necessary, to fix and establish buoys or other way marks, directing boats or other vessels to the proper channel; and also to erect and establish such posts or beams as they may think necessary for assisting boats or other craft in overleaping difficult places; and if any person or persons whatsoever shall wilfully remove or destroy any of the buoys, way-marks, posts or beams so established, such person or persons shall forfeit and pay, for every such offence, a sum not exceeding twenty dollars, at the discretion of the commissioners, to be recovered and appropriated as hereinbefore directed, and shall also be liable to make good all damages by him or them so done.

XV. *And be it further enacted*, That if any vacancy shall happen in any of the Boards of Commissioners hereinbefore appointed, the remaining Commissioners of the Board having such vacancy, or a majority of them, at their next meeting, shall choose some fit person to fill up such vacancy; and the person so chosen is hereby declared to be a commissioner, and vested with all the powers and authorities by this Act given to any of the commissioners hereinbefore named.

XVI. *And be it further enacted* by the authority aforesaid, That all Acts, or clauses of Acts, heretofore passed, be, and the same are hereby, repealed, so far as the same may relate to the navigation of Great Peedee river.

In the Senate House, the sixteenth day of December, in the year of our Lord one thousand eight hundred and fifteen, and in the fortieth year of the Independence of the United States of America.

JAMES R. PRINGLE, *President of the Senate.*

THOS. BENNETT, *Speaker of the House of Representatives.*

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A. D. 1815.

AN ACT TO ALTER AND AMEND AN ORDINANCE ENTITLED "AN ORDINANCE TO IMPOWER COMMISSIONERS THEREIN NAMED, TO CUT AND SINK DRAINS AND WATER PASSAGES IN THE SWAMP AND SAVANNAHS FORMED BY THE NORTH-EAST BRANCH OF STONO RIVER," PASSED ON THE SIXTEENTH DAY OF MARCH, IN THE YEAR ONE THOUSAND SEVEN HUNDRED AND EIGHTY THREE.

No. 2091.

WHEREAS, the powers given to the Commissioners in the aforesaid Ordinance have been found by experience to be totally inadequate to the accomplishment of so beneficial an object:

I. *Therefore, be it enacted*, by the honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the powers, authorities and provisions of an Act entitled "An Act to empower commissioners therein named, to cut, sink and keep in repair drains and water passages in Cawcaw swamp, in St. Paul's parish," passed on the twelfth day of December, in the year one thousand seven hundred and ninety-five, be, and the same are hereby, declared to extend to the opening of cuts, drains and water passages in the Swamp and Savannas formed by the North-east branch of Stono river.

II. *And be it further enacted* by the authority aforesaid, That if any person or persons, by themselves or their servants, slaves or others, shall, by any ways or means, hinder, oppose or obstruct the said commissioners, or either of them, or their successors, or either of them, or any person or persons by them employed or appointed, or any servant, workman or laborer, or any person so employed or appointed, from making, cutting, sinking clearing or keeping in repair either of the said drains or canals, or any part of either of them, or from cutting down trees, filling up any hollows, ditches, drains or canals, or from making use of any timber, wood, earth or stones situate near either of the said canals or drains, which may be necessary for the making or keeping in repair the said drains or canals, or shall obstruct, or in any degree prevent, the free passage of water through either of the said drains or canals, or any part thereof, shall forfeit a sum not exceeding fifteen hundred dollars, to be recovered by action of debt in any court of record having competent jurisdiction in this State, and to be applied to the making and keeping in repair the said drains and canals.

III. *And be it further enacted* by the authority aforesaid, That if any commissioner shall fail or neglect to attend any stated meeting, or any extraordinary meeting, after having had two days notice of such meeting, he shall forfeit the sum of forty-five dollars; and if while the labourers are actually at work he fail or neglect to attend at any place for that purpose appointed, for every day's absence he shall forfeit the sum of ten dollars, unless in either of these cases he shall offer at the next stated meeting such an excuse as the majority of the Board shall determine to be valid and sufficient.

IV. *And be it further enacted* by the authority aforesaid, That every fine and penalty recovered by this Act shall be appropriated by the commissioners to defray such expenses as may be incurred in making and keeping in repair the said canals and drains, or erecting, altering, repairing or renewing any bridge to cross the same.

In the Senate House, the sixteenth day of December, in the year of our Lord one thousand eight hundred and fifteen, and in the fortieth year of the Independence of the United States of America.

JAMES R. PRINGLE, *President of the Senate.*

THOS. BENNETT, *Speaker of the House of Representatives.*

A. D. 1817.

Acts relating to Rivers.

No. 2161. AN ACT TO SUSPEND AN ACT ENTITLED "AN ACT TO IMPROVE AND
EXTEND THE NAVIGATION OF BLACK RIVER."

I. *Be it enacted*, by the honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the Act entitled "An Act to improve and extend the navigation of Black river," passed on the sixteenth day of December, in the year of our Lord one thousand eight hundred and fifteen, be, and the same is hereby, suspended for one year from and immediately after the passing of this Act, so far as relates to the improvement and extension of the navigation of Black river, above Lowry's ferry, on said river.

In the Senate House, the seventeenth day of December, in the year of our Lord one thousand eight hundred and seventeen, and in the forty-second year of the Sovereignty and Independence of the United States of America.

JAMES R. PRINGLE, *President of the Senate.*

THOS. BENNETT, *Speaker of the House of Representatives.*

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- within said city, to the amount hereinafter specified. The court shall have jurisdiction in civil cases to the amount following:—no verdict shall be given for a greater sum than five hundred dollars, exclusive of costs, but any amount not exceeding five hundred dollars, exclusive of costs, is within the jurisdiction of the court, whether the same be damages, or the balance of mutual demands, or single cause of action: *Provided*, nothing contained in this Act shall be so construed as to extend to any inhabitant of this State, who may not be a resident within the city of Charleston, and no person shall be construed to be a resident of the city, unless he shall have resided therein three months prior to the commencement of the suit or prosecution; or four months during the year immediately preceding the commencement of the suit or prosecution.....319
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28. The sheriff of the court shall provide boxes and make lists of persons to be drawn as grand jurors in the city, in the same manner as in the court of sessions, and petit jurors shall be drawn to serve one week, unless they be actually charged with an issue, in which case they shall be adjourned from time to time, or continue to sit until the issue shall be disposed of; and the same number shall be drawn and summoned for each week, as has heretofore been drawn for one week.....320
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37. To have concurrent jurisdiction with the court of general sessions for Charleston district, of all cases of grand and petit larceny, and in all cases of misdemeanor, arising or committed within the limits of the city, under any law now in force, or hereafter to be passed in this State; *provided*, that nothing herein contained shall extend to any inhabitant of this State, (except transient persons,) not a resident of the city, and no person shall be construed to be a resident of the city, unless he shall have resided in the city three calendar months prior to the commencement of the prosecution against him, or shall have resided within the city four months during the year, immediately preceding the commencement of such prosecution.....338
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VI.—COURT FOR THE TRIAL OF SLAVES AND PERSONS OF COLOUR.

1. All the Acts relating to slaves and persons of colour, from the settlement of the Colony to the year 1751, have been repealed, or have expired of their own limitation.
2. Upon complaint made to any justice of the peace, of any heinous or grievous crime, committed by any slave or slaves, as burglary, robbery, burning of houses, killing or stealing of any neat or other cattle, or other petty injuries, as maiming one of the other, stealing of fowls, provisions, or such like trespass, the justice shall issue his warrant for apprehending the offenders, and for all persons to come before him that can give evidence, and if, upon examination, it probably appear that the apprehended are guilty, he shall commit them to prison, or take security for their forthcoming, as the case shall require, and also certify to the justice next to him the cause, and require him to associate himself to him, (which such justice shall do,) and they so associated shall issue their summons to three discreet and sufficient freeholders, acquainting them with the matter, and appointing them a day, hour, and place, when and where the same shall be heard and determined, at which time and place, the justices and freeholders shall cause the offenders and evidences to come before them; and if they, on hearing the matter, (the freeholders being by the justices first sworn to judge impartially and according to evidence,) shall adjudge the criminals guilty of the offence complained of, they shall give sentence of death, if the crime by law deserves the same, or such punishment as the crime deserves; and by their warrant, cause immediate execution to be done, by the common or any other executioner, in such manner as they shall think fit; and if the crime committed shall not deserve death, they shall condemn and adjudge the criminals to the party injured, and to his heirs forever, after they have received such corporal punishment as the justices and freeholders shall appoint, unless the owners shall pay to the parties injured such sums of money, for the value of such times as the justices and freeholders shall appoint; and if any justice or freeholder shall neglect his duty above required, he shall forfeit twenty pounds. (Expired.) 345, 374
3. *Provided nevertheless*, that when any of the afore-mentioned crimes shall be committed by more than one negro, that shall deserve death, only one of the criminals shall suffer death, as exemplary; the rest to be returned to the owners, which owners of slaves so offending, shall bear proportionably the loss of the negro so put to death, and also proportionably the damage done by the criminals to the parties injured, as shall be allotted them by the justices and freeholders; and if any person shall refuse to pay his part so allotted, the justices and freeholders shall issue out their warrant of distress upon the goods and chattels of the person so refusing, and shall cause the same to be sold by public outcry, to satisfy the money so allowed him to pay, and to return the overplus, if any be, to the owner. (Expired.) 346
4. If any slave or slaves shall commit murder, or make any insurrection, or raise rebellion against their master's authority, or make any preparations of arms, as powder, bullets or offensive weapons, or hold any conspiracies for raising mutinies and rebellion, the offender shall be tried by two justices of the peace and three able freeholders, associated together as before expressed, who are required to try the slaves so offending, and inflict death, or any other punishment upon them, and forthwith, by their warrant, to cause execution to be done by the common, or any other executioner, in such manner as they shall think fit; and if any person shall make away, or conceal any slave suspected to be guilty of the afore-mentioned crime, and not upon demand bring forth the suspected offender, he shall forfeit one hundred pounds. (Expired.) 346
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2. If at any time, one or more of the judges of the court should be absent, sick, dead, or disabled to attend, it shall be the duty of the other judges to notify the eldest circuit law judge thereof, and the next eldest, should it be necessary, excepting any judge who may by law be excused from the performing circuit duty, who shall thereupon immediately take the place of the absent appeal judge or judges, until he or they shall return to their duties, or a successor be chosen by the legislature ; and the decision of a majority of the court shall be conclusive ; *provided, however*, that when a circuit judge is called in, he shall not try an appeal from his own decisions on circuit. 325
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- 2. Whoever shall take up any runaway slave, shall bring the runaway to his owners, if they be known, and receive for his pains, eight pence per mile for the first five miles, and six pence per mile for every mile more; *provided*, it exceed not seventy shillings in the whole; if the owners be not known, then to the sheriff or gaoler, upon pain or forfeiture for every day he shall keep such slave beyond the said four days, in the sum of twenty pounds, on conviction; to be levied by the sheriff or gaoler, or his lawful deputy, upon the goods and chattels of the person so neglecting to bring the runaway.....344, 378
- 3. No person shall receive payment for taking up any slave, till he gives an account to the sheriff or gaoler of his own name and place of abode, with the time and place, when and where taken up, with an account of the marks most distinguishing, and name; which account of all such slaves coming into his custody, the sheriff or gaoler shall cause to be fairly written and affixed upon a public place in the gaol, on the penalty of fifty pounds, and shall enter it into a book; and also, to take a receipt from the person to whom he delivers any

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- runaways, with the name and place of abode of the person to whom delivered ; and in case the sheriff or gaoler refuse to make payment for the taking up any runaway slave, and oath thereof be made before any justice of the peace, the justice is authorized to direct his warrant to any constable, to cause the value thereof to be immediately levied upon the goods of the sheriff or gaoler, and the goods to be sold by public outcry, and satisfaction to be made to the complainant, returning the overplus to the sheriff or gaoler. 344, 378
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 5. If the sheriff or gaoler shall willingly or negligently suffer any slave to escape, or be employed, or by any means to be out of his custody, before he be duly delivered to the owner or his assigns, then the sheriff or gaoler shall forfeit to the owner, thirty pounds for every slave so escaping, employed, or being out of his custody. 344, 379
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 11. If any white person shall directly or indirectly tempt any slave to leave his master's service, with a design to carry him off from this Province, such person shall forfeit to the master, the sum of twenty-five pounds ; or in case there be more than two slaves thus tempted, the sum of ten pounds for each ; the forfeitures to be sued for by action of debt, at any time within six months after the offence committed. 357
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 14. Any negro or slave guilty of enticing another to run from his master's service in order to leave the Province, shall, being convicted of the same, be severely whipped, not exceeding forty lashes, and shall be branded in the forehead with a hot iron. 357
 15. If any slave shall so practice with another, and actually convey away or send him off from the Province, or be arrested in the act of so doing, being found guilty of the fact, shall suffer death ; and the slave so consenting to his enticement, shall suffer death or other punishment as shall be judged fitting by the two justices and three freeholders giving sentence against him. 358
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- the pound for laying out the money, and also one ryal for every twenty-four hours the slave has been in custody; and if he shall willingly or negligently suffer any slave to escape, before being duly delivered to the owner or his assigns, with a receipt of the person to whom delivered, wherein shall be inserted the marks or description of the slave, he shall forfeit to the owner ten pounds, and the full value of the slave so escaping; the same to be appraised by any three freeholders, and to be recovered by action of debt, in the court of common pleas, brought within six months after such escape. But upon recovery thus obtained, and judgment satisfied and paid, the owner of such slave shall assign unto the marshal, all his title and interest therein. 361
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